

***United States Court of Appeals
for the Second Circuit***



APPENDIX

77-1481

In The
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

DOCKET NO. 77-1481

Bp/s

UNITED STATES OF AMERICA,

APPELLEE,

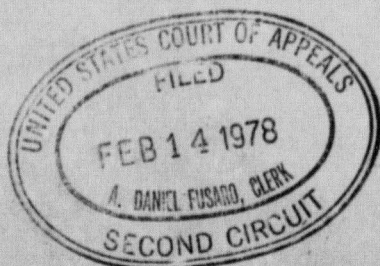
-vs-

ANDY CASTRO,

APPELLANT.

On Appeal From the United States District Court
For the District of Connecticut

APPENDIX TO BRIEF FOR APPELLANT



ANDREW B. BOWMAN
FEDERAL PUBLIC DEFENDER
770 CHAPEL STREET
NEW HAVEN, CONNECTICUT 06510
(FTS) 8-643-8148
ATTORNEY FOR ANDY CASTRO

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RECEIVED

JUL 5 1977

U.S. ATTORNEY'S OFFICE
NEW HAVEN, CONNECTICUT

FILED

JUN 29 4 32 PM '77

U.S. DISTRICT COURT
HARTFORD, CONN.

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA

v.

DANIEL SCOTT PALTER,
ANDY CASTRO and
OWEN BRADLEY DAVIES

CRIMINAL NO.

N-77-89

I N D I C T M E N T

The Grand Jury charges:

COUNT ONE

From on or about May 16, 1974, to on or about June 21, 1977, in the District of Connecticut, DANIEL SCOTT PALTER, ANDY CASTRO and OWEN BRADLEY DAVIES knowingly and intentionally did unlawfully manufacture a quantity of amphetamine, a schedule II controlled substance.

In violation of Title 21, United States Code, Section 841(a)(1) and Title 18, United States Code, Sections 2(a) and 2(b).

COUNT TWO

From on or about May 16, 1974, to on or about June 21, 1977, in the District of Connecticut, and elsewhere, DANIEL SCOTT PALTER, ANDY CASTRO, OWEN BRADLEY DAVIES, co-conspirators and defendants herein, and EDGAR VELAZQUEZ, a co-conspirator but not a defendant herein, wilfully and knowingly did combine, conspire, confederate and agree together, with each other, and with diverse other persons whose names are to the Grand Jury presently unknown,

to knowingly and intentionally unlawfully manufacture a quantity of amphetamine, a schedule II non-narcotic controlled substance, and to knowingly and intentionally unlawfully manufacture and attempt to manufacture a quantity of methaqualone, a schedule II non-narcotic controlled substance in violation of Title 21, United States Code, Sections 841(a)(1) and 846 and Title 18, United States Code, Sections 2(a) and 2(b); all in violation of Title 21, United States Code, Section 846.

1. It was part of said conspiracy that the defendants and co-conspirators would and did purchase chemicals, supplies and equipment using the names Poly-Chem Service Company and Thompson Research Company from SGA Scientific, Inc., 735 Broad Street, Bloomfield, New Jersey, Macalaster Bicknell of Connecticut, Inc., New Haven, Connecticut, J. T. Baker Chemical Company, Phillipsburg, New Jersey, Ventron Corporation, Danvers, Massachusetts, and other suppliers.

2. It was further a part of said conspiracy that the defendants and co-conspirators would and did utilize said chemicals, supplies and equipment to induce chemical reactions necessary to produce amphetamine and to convert said amphetamine to tablet form by means of a home-made pill press.

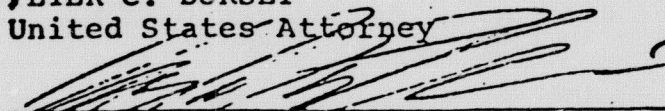
3. It was further a part of said conspiracy that the defendants and co-conspirators would and did purchase a quantity of a chemical, O-toluidine, from Macalaster Bicknell of Connecticut, Inc., New Haven, Connecticut and a tank of chlorine gas from

Cyro Dyne Corporation, New Haven, Connecticut in an attempt to induce chemical reactions necessary to produce methaqualone.

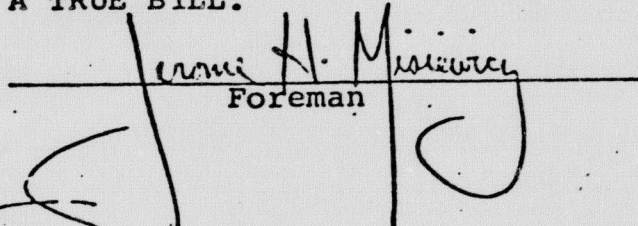
A TRUE BILL.



PETER C. DORSEY
United States Attorney



HAROLD JAMES PICKERSTEIN
Chief Assistant U. S. Attorney


Foreman

UNITED STATES DISTRICT COURT

UNITED STATES OF AMERICA

Docket Number

FILED

-VS-

ANDY CASTRO

Nov 23 12 04 PM '77

Hon. Robert C. Taylor
(District Court Judge) U.S. DISTRICT COURT
NEW HAVEN, CONN.

NOTICE OF APPEAL

Notice is hereby given that Andy Castro appeals to
the United States Court of Appeals for the Second Circuit from the Judgment order other
(specify) entered in this action on November 21, 1977
(Date)

Date NOV. 23, 1977
To: H. James Pickerstein, Esq.
 Asst. U.S. Attorney
 P.O. Box 1824
 New Haven, Connecticut 06508

Address

Andrew B. Rouman
(Counsel for Appellant)
 Federal Public Defender
 770 Chapel Street
 New Haven, Connecticut 06510

Phone Number 432-2148

ADD ADDITIONAL PAGE IF NECESSARY

(FTS) 8-643-8148

(TO BE COMPLETED BY ATTORNEY)

TRANSCRIPT INFORMATION - FORM B

QUESTIONNAIRE

TRANSCRIPT ORDER

DESCRIPTION OF PROCEEDINGS
FOR WHICH TRANSCRIPT IS
REQUIRED (INCLUDE DATE).

☒ I am ordering a transcript
☐ I am not ordering a transcript
Reason:
☐ Daily copy is available
☐ U.S. Attorney has placed order
☐ Other. Attach explanation

Prepare transcript of
☐ Pre-trial proceedings
☐ Trial
☒ Sentence 11/21/77
☐ Post-trial proceedings
 X PLEA
 Plea of Castro, Davies, and
 Palter: (Castro--9/27/77,
 Palter--9/27/77; & Davies--
 10/7/77). The sentencing of
 Castro, Davies & Palter was
 on 11/21/77.

The ATTORNEY certifies that he will make satisfactory arrangements with the court reporter for payment of the cost of the transcript. (FRAP 10(b)) ☒ Method of payment ☐ Funds ☒ CJA Form 21

ATTORNEY'S signature

DATE

November 23, 1977

COURT REPORTER ACKNOWLEDGEMENT

To be completed by Court Reporter and
forwarded to Court of Appeals.

Date order received

Estimated completion date

Estimated number
of pages.

Date

Signature

(Court Reporter)

COPY FOR DEFENDANT

4

OFFENSE PO	JURISDICTION	Assigned	U.S.	CASTRO, ANDREW	Case File No.	77N-77-89	2
OFFENSE MO	0507	Disp/Sentence			6/29		
DEMEANOR	205 03				No. of Dets		
FELONY Fel	X				JUVENILE		

U.S. TITLE/SECTION	OFFENSES CHARGED	ORIGINAL COUNTS
21:841(a)(1)	manufacture schedule II controlled	1
18:2(a) and (b)	substance	
21:846	conspiracy to violated 21:841(a)(1)	

U.S. MAG. CASE NO.	77-0045M-01
BAIL - RELEASE	
☐ AMT	☐ Fugitive
☐ Denied	☐ Pers. Recog.
☐ Set	☐ PSA
\$ 5,000	conditions
Date 6/21/77	☐ 10% Deposit
	☒ Surety Bond
☒ Bail Not Made	☐ Collateral
☒ Status Changed (See Docket)	☐ 3rd Ptry Cust
	☐ Other

II. KEY DATES & INTERVALS

ARREST or	INDICTMENT	X	ARRAIGNMENT	TRIAL
U.S. Custody Begun	High Risk Date	6/29/77	7/5/77	Trial Set For
Summons Served	Indict. returned		Final Plea	9/27/77
First Appearance	Charging District		Final Plea	9/27/77
	Superseding Indict. Info.		Final Plea	9/27/77

SENTENCE
Disposition of Charges
9/27/77
11/21/77
☐ Convicted
☐ Acquitted
☐ Dismissed
☐ On All Charges
☐ On Lesser Offense(s)
☐ WOP
☐ WP
☐ On Government Motion

MAGISTRATE		DATE	INITIAL/NO.	INITIAL APPEARANCE DATE	INITIAL/NO.	OUTCOME:
Search Warrant	Issued	6/21/77		6/21/77		☐ DISMISSED
Summons	Issued	6/21/77		7/1/77		☐ HELD FOR GJ OR OTHER PROCEEDING IN THIS DISTRICT
Arrest Warrant Issued	Served	6/21/77				☐ HELD FOR GJ OR OTHER PROCEEDING IN DISTRICT BELOW
COMPLAINT		6/21/77				
OFFENSE (In Complaint)	unlawful manufacture of quantity of amphetamine a Schedule II Controlled Substance.					

U.S. Attorney or Asst. **XXXXXX**
 Harold J. Pickerstein
 Richard Blumenthal

ATTORNEYS
 Andrew B. Bowman
 770 Chapel Street, New Haven, Conn.

DATE	(DOCUMENT NO.)	PROCEEDINGS	EXCLUDABLE DELAY
6/29		Indictment returned at Hartford and filed in New Haven. Defendant is incarcerated. Eagan, M. m-7/1/77	(a) (b) (c) (d)
6/22		Magistrate's Warrant of Arrest with Marshal's return thereon, Complaint, Magistrate's Temporary Commitment, CJA Form 23 (financial affidavit), and CJA Form D appointing the Federal Public Defender, filed.	
6/23		U.S. Magistrate's Papers, filed: Docket entries, Search Warrant with return thereon and Affidavit for Search Warrant.	
7/5		PLEA: Plea of not guilty entered to Cts. 1 and 2. Deft's Motion to Reduce Bond-granted. Deft to be released on a \$10,000.00 non surety bond. Special conditions of bond is that the deft. call the Public Defender's office every Monday stating where he is employed and home address. If deft fails to call, the public defender is to notify the U.S. Atty. Travel restrictions are N.Y. and Conn. If deft. has	

DATE	IV PROCEEDINGS (continued)	PAGE TWO	Internal Section II (a)	Start Date End Date (b)	Li Code (c)	Total Days (d)
1977	(DOCUMENT NO)					
7/5	passport it is to be surrendered. Case continued until 9/27/77 for trial. Zampano, J. m-7/5/77					
7/6	Appearance bond in the amt. of \$10,000.00 non surety with special conditions, filed by deft and approved. Zampano, J. m-7/6/77.					
7/13	Notice of Readiness, filed by govt.					
7/25	Court Reporter's Notes of Proceedings (plea) held on 7/5/77, filed. Russell, R.					
8/1	Magistrate's Temporary Commitment, filed.					
8/18	Additional Discovery Requests, filed by Govt.					
9/27	On RCZ's Jury Assignment List: change of plea. Zampano, J. m-9/27/77					
" "	CHANGE OF PLEA: Deft. request leave to change his plea of not guilty entered earlier to ct. two. Court grants request and orders previous plea erased from the record. Deft. is put to plea again and pleads guilty to ct. two. Ct. one to be dismissed at the time of sentencing. Plea negotiation placed on the record. Deft. is advised that he could be sentenced under the Y.C.A. Case cont'd on same bond for sentencing on 11/1/77. Zampano, J. m-9/27/77.					
11/17	Deft's Motion for Disclosure of Information Appearing on the Confidential page of defendant Andy Castro's Presentence Report and of Portions of Codefendants' Presentence Rports which specifically refer to Andy Castro., Memo in Support of D3fendant Castro's Motion for Disclosure.					
11/21	Motion for Discolsure of Information Appearing on the Confidential Page of Deft. Andy Castro's Presentence Report and of Portions of Codeft.'s Presentence Reports Which Specifically refer to Andy Castro; Endorsed: GRANTED to extent stated in open court, Zampano, J. m- 11/22/77.					
11/21	DISPOSITION: Imprisonment 18 mos. on Count 2 plus 2 years special parole term; Count 1 dismissed by Court on Motion of U. S. Atty; Mtn for voluntary surrender Denied; Court recommends FCI Danbury, Zampano, J. m- 11/22/77.					
11/21	JUDGMENT AND COMMITMENT, filed and entered. Zampano, J. m- 11/28/77 copies distributed.					
11/23	Notice of Appeal, filed by deft.					
12/5	Cert. copy of Notice of Appeal, docket entries and Crim. Case Info. Form A mailed to clerk, U.S.C.A.					

FINE AND RESTITUTION PAYMENTS					
DATE	RECEIPT NUMBER	C.D. NUMBER	DATE	RECEIPT NUMBER	C.D. NUMBER

DATE 1977	PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
	(Document No.)	(a)	(b)	(c)	(d)
12/1	Copy of Letter from Andrew Bowman to Tommaso Rendino, SUSPO, requesting that he turn presentence report over to Clerk's Office for transmittal to Court of Appeals, filed.				
12/5	Marshal's return showing service, filed: Judgment and Commitment. Deft. committed to F.C.I. Danbury.				
12/6	JS-3 mailed to A.O.				

United States of America vs.

United States District Court for

ANDREW CASTRO

DISTRICT OF CONNECTICUT

DEFENDANT

DOCKET NO. N-77-89 Criminal

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government
the defendant appeared in person on this date

MONTH DAY YEAR

November 21, 1977

COUNSEL

☐ WITH COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSEL

Andrew B. Bowman, Esq.

(Name of counsel)

PLEA

☒ GUILTY, and the court being satisfied that
there is a factual basis for the plea,

☐ NOLO CONTENDERE,

☐ NOT GUILTY

There being a finding/verdict of

☐ NOT GUILTY. Defendant is discharged
☐ GUILTY.

FINDING &
JUDGMENT

Defendant has been convicted as charged of the offense(s) of violation of Title 21, Section 846,
of the United States Code (conspiracy to manufacture a schedule II
non-narcotic controlled substance)

as charged in Count Two, Count One dismissed

SENTENCE
OR
PROBATION
ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of **eighteen (18) months on Count Two together with a special parole term of two (2) years.**

SPECIAL
CONDITIONS
OF
PROBATION

ADDITIONAL
CONDITIONS
OF
PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT
RECOMMEN-
DATION

The court orders commitment to the custody of the Attorney General and recommends,
**the Federal Correctional Institution at
Danbury, Connecticut**

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY

☒ U.S. District Judge

Robert C. Zampano

☐ U.S. Magistrate

CERTIFIED AS A TRUE COPY ON

THIS DATE

11/22/77

BY

[Signature]

() CLE
() DEI

Date

8

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA

-vs-

ANDY CASTRO

CRIMINAL NO. N-77-89

MOTION FOR DISCLOSURE OF INFORMATION
APPEARING ON THE CONFIDENTIAL PAGE OF DEFENDANT
ANDY CASTRO'S PRESENTENCE REPORT
AND OF PORTIONS OF CODEFENDANTS' PRESENTENCE REPORTS
WHICH SPECIFICALLY REFER TO ANDY CASTRO

Pursuant to the order of this Court dated June 30, 1976, a copy of which is attached to this motion and the Due Process Clause of the Fifth Amendment and the Confrontation Clause of the Sixth Amendment, defendant Andy Castro respectfully moves that the sentencing judge:

(1) Order disclosure of the confidential page of this defendant's presentence report or state orally or in writing in camera a summary of the factual information contained on the confidential page; and,

(2) Order disclosure of those portions of the presentence reports of codefendants' Davies and Palter which specifically refer to Andy Castro's character, role and conduct during the course of their association with him.

THE DEFENDANT,
ANDY CASTRO

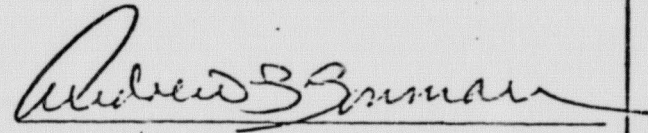
Dated: November 17, 1977

By: 

Andrew B. Bowman
Federal Public Defender
770 Chapel Street
New Haven, Connecticut 06510
(FTS) 8-643-8148
Attorney for Andy Castro

CERTIFICATION

I hereby certify that a copy of the foregoing Motion has been mailed to H. James Pickerstein, Esq., Chief Assistant U.S. Attorney, P.O. Box 1824, New Haven, Connecticut, 06508; Thomas D. Clifford, Esq., Shipman & Goodwin, 799 Main Street, Hartford, Connecticut, 06103; and a copy to Sheila Ginsberg, Esq., Phillips, Nizer, Benjamin, Krim and Ballon, 40 West 57th Street, New York, New York, 10019; this 17th day of November, 1977.



ORDER

It is hereby ORDERED that Criminal Rule 11, Re: Disclosure of Pre-Sentence Reports, of this District, is hereby amended to read as follows:

The pre-sentence report shall be available for inspection by the defendant, or his counsel if he is so represented, and the attorney for the government two business days prior to sentencing at the United States Probation Office in or nearest to the city in which the sentencing is scheduled, subject to the following limitation:

In the preparation of pre-sentence reports, the Probation Officer's sentence recommendation and any information which he believes should not be disclosed to the defendant (such as diagnostic opinions which might seriously disrupt a program of rehabilitation, sources of information obtained upon a promise of confidentiality, or any other information which, if disclosed, might result in harm, physical or otherwise, to the defendant or other persons) shall be submitted on a separate page from the body of the report and marked "confidential." The sentencing judge in lieu of making the confidential page available, exclusive of the sentencing recommendation, shall state orally or in writing a summary of the factual information contained therein to be relied on in determining sentence. The statement may be made to the parties in camera.

The Criminal Rules of this Court are further amended by the addition of the following:

R U L E 12

SENTENCING PROCEDURES

I. The Role of Counsel

A. Defense Counsel

1. Defense counsel, prior to entry of plea or commencement of plea agreement discussions, shall assure himself that the defendant understands the nature and consequence of the plea and sentencing proceedings.
2. Defense counsel shall familiarize himself with the contents of the pre-sentence report prior to sentencing.
3. Defense counsel may, and when directed by the court, must submit sentencing memoranda to the court prior to the sentencing hearing addressed, inter alia, to the following issues:
 - a. The accuracy of the pre-sentence report;
 - b. Any additional fact relevant to sentencing;
 - c. Recommended alternatives to incarceration, including, inter alia, probation suspended sentence, community treatment, and/or fine.

B. The United States Attorney

The prosecutor shall advise the judge, on the record or in writing, of any cooperation rendered by the defendant to the government; this memorandum may be submitted by the agency to which cooperation was furnished; it shall be revealed to defense counsel unless the prosecutor shows good cause for non-disclosure.

II. The Role of the Probation Officer

- ##### A. In connection with the preparation of the pre-sentence report, the probation officer shall:
1. Consider any sentence or correctional proposals which defendant or his counsel may suggest;
 2. Consider any specific factual and opinion evidence relating to defendant's physical and mental condition which defendant or his counsel submits.

B. In regard to pre-sentence hearings and the sentencing hearing itself, the probation officer shall:

1. Attend such hearings when requested by the judge;
2. Consult with the judge regarding any queries which the latter may have;
3. Make specific sentence recommendations to the judge when requested.

III. The Role of the Judge

A. Notification of Availability of Pre-Sentence Report

The sentencing judge, or the probation office, at the direction of the judge, shall, without request, notify counsel of the availability of pre-sentence report for inspection.

B. Pre-Sentence Conference

In his discretion, the sentencing judge, prior to the sentencing hearing, may confer with the prosecutor and defense counsel together (and with the probation officer, when requested by the judge):

1. To be informed of any agreement;
2. To consider questions regarding the pre-sentence report;
3. To define contested factual issues in the pre-sentence report and, in the discretion of the judge, establish an appropriate procedure for resolving contested material factual disputes;
4. To evaluate the significance of the data in the pre-sentence report on the issue of whether it would support a determination to impose either probation or incarceration;
5. To consider the appropriateness of further study of the defendant, including psychiatric evaluation and/or pre-sentence diagnostic commitment to a correctional facility;
6. To review the extent and value of defendant's cooperation with authorities; and
7. To consider any other matters deemed appropriate or necessary by the judge or counsel, including the appropriate Parole Board guidelines.

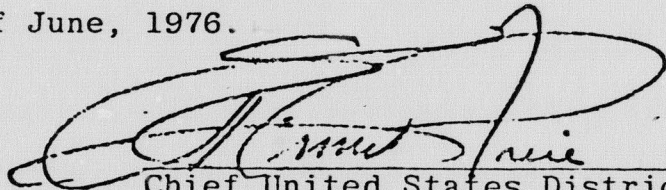
C. The Sentencing Hearing

When sentence is imposed, the court should:

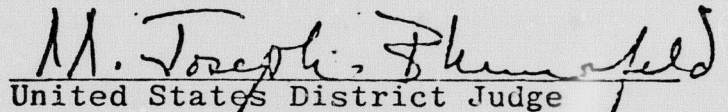
1. Afford the defendant his right of allocution;
2. Make specific findings on controverted factual issues which the court intends to consider in imposing sentence.
3. State for the record, in the presence of the defendant, the reasons for the particular sentence imposed.
4. Direct, where appropriate, that a transcript of the sentencing hearing go forward to the Bureau of Prisons and Board of Parole; where findings have been made on contested issues, the court shall direct that the transcript of such findings go forward to the Bureau of Prisons and Board of Parole;
5. Advise defendant of his right to appeal and related right pursuant to Rule 32, F.R.Cr.P.

This ORDER shall become effective when entered.

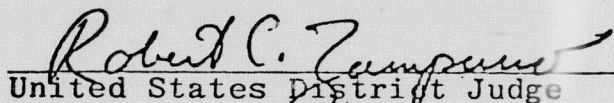
Dated at New Haven and Hartford, Connecticut,
this 30th day of June, 1976.



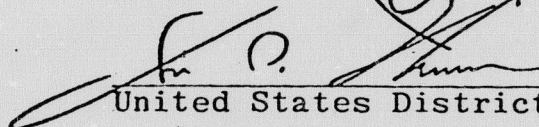
Chief United States District Judge



United States District Judge



United States District Judge



United States District Judge

C. SCOTT GROVE, M.D.
210 Prospect Street
New Haven, Connecticut 06511
562-5252

November 7, 1977

Andrew B. Bowman, Esq.
Federal Public Defender
770 Chapel Street
New Haven, Connecticut 06510

Dear Mr. Bowman:

Re Andy Castro

At your request I met with Mr. Castro in two psychiatric consultations in my office on the following days: 9/30/77 and 10/4/77. The total time involved in these consultations approximated four hours. I am familiar with the indictment of Mr. Castro (Criminal No. N-77-89), which outlines his involvement as a co-conspirator in the unlawful manufacture of amphetamines and methaqualone.

Mr. Castro is a 25-year-old (DOB 12/18/51), single man, who is presently unemployed. He has a 3-year college education from New York City College but no professional training or experience as a skilled laborer. With the exception of a 3 1/2-year employment as an elevator operator in a New York hotel, he has had no other major employment.

Mr. Castro is a large man, who made every effort to create the impression of being in possession of the experience, judgment and wisdom usually associated with a venerated old man. While clearly a man of some intelligence, these efforts fell short of their mark, and he achieved only a pitiable characterization of sageliness behind which he attempted to conceal his thoughts and feelings. He evaded some of my inquiries with sphinx-like silence and others with highly personalized, enigmatic maxims, each of which was punctuated with a quick smile that more nearly approximated a grimace. Some of these sayings were in fact thinly veiled allusions to thoughts of suicide which he would neither deny nor affirm when I pressed him for an explication. I had no doubt early in the interview that this morose man was seriously depressed, but it was not until I knew him better that I appreciated the full intent of these cryptic suicidal threats; i.e., he was testing my ability at deciphering them and testing the genuineness of my concern and caring for his well-being. I do not believe that at this time he is a serious suicidal risk.

Whereas depression characterizes in most ways his mood and affect, a form of masochism characterizes his general attitude toward life. He feels betrayed by his long-time friend and co-conspirator, D. S. Palter, a man

November 7, 1977

whom he worshipped and "trusted." And he feels betrayed by "my only other friend," i.e., a woman whom he has not seen for a very long time, although he speaks of her loss with such intense grief and longing that one would think their separation occurred just yesterday. He seems to respond to these losses by taking some perverse satisfaction in displaying his misery and cynicism. It is as if he were saying, "Look how miserable I am" or "Look how miserable you have made me." In this way he tries to compel others to give him their love, attention and affection. He experiences himself as a victim of those he cares for and of society in general. He views his betrayal and his sentencing by the court as a victimization. If he is imprisoned, he will again experience it as a submission to sacrifice. In fact, on the street in New York City he was mugged by several men approximately three months ago; whereas discretion would have dictated that he quickly give up his money and protect his body, he refused to do so and as a result took a murderous beating.

Mr. Castro's past and family history is typical of a masochistic, depressed adult. He was born into a poor Puerto Rican family in New York City. His father was an unemployed alcoholic, who abandoned his family when Andy was nine years old. He regards abandonment of their families typical for Puerto Rican men. He recalls with anguish that his mother cowed him into submission with her unpredictable verbal tirades, and on one occasion she nearly threw him out of their apartment window over a petty matter. His stepfather was a dishwasher and later a waiter at a New York hotel. Andy Castro identified with his stepfather's continual humiliation at the hands of his boss: "They kept him poor...and they kept him down." As the eldest child among six siblings living in poverty, it is remarkable that he was able to acquire any education at all, let alone three years of college. Lastly in this regard it must be borne in mind that masochistic men feel compelled to subject themselves to danger, fail to avoid it when present and often create situations in which they are attacked; prison offers an ideal setting for the realization of any or all of these psychodynamics.

Mr. Castro has no previous criminal record, but he does have a history of psychiatric problems dating at least back to 1975, when he was seen at the Hunts Point Multi-Service Center Corporation, Mental Hygiene Unit. At that time he was treated for anxiety, depression, confusion, insomnia,...and was diagnosed as being a paranoid schizophrenic. The data presented in his psychiatric record from Hunts Point does not support this diagnosis. Although I cannot rule out a schizophrenic thought disorder in Mr. Castro's case, I can safely say he was not psychotic at the time of this interview.

In conclusion, let me put forth my credentials. I received my M.D. from Chicago, interned at the Cook County Hospital in Chicago and received my psychiatric training at Yale, where I have remained as a clinical instructor. I am a clinical associate in the adult and child programs at the Western New England Institute for Psychoanalysis. The majority of my professional time is spent in the private practice of psychiatry and psychoanalysis.

Respectfully yours,

C. Scott Grove, M.D.
C. Scott Grove, M.D.

CSG:SM

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

----- X
UNITED STATES OF AMERICA

vs.

DANIEL SCOTT PALTER
----- X

:
:
:
: Criminal No.
: N-77-89
:
:

Federal Building
New Haven, Connecticut
September 27, 1977

B e f o r e :

HON. ROBERT C. ZAMPANO
Senior United States District Judge

A p p e a r a n c e s :

For the Government:

RICHARD BLUMENTHAL, ESQUIRE
P. O. Box 1824
New Haven, Connecticut 06508
By: H. J. Pickerstein, Esquire

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1 A p p e a r a n c e s (Continued) :

2 For the Defendant:

3 SHEILA GINZBERG, ESQUIRE
4 49 West 57th Street
5 New York, New York

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1 MR. PICKERSTEIN: Mr. Palter is
2 represented by Sheila Ginzberg.

3 The government anticipates a change
4 of plea as to Count Two of the indictment. Plea
5 negotiations have been reduced to written instrument,
6 executed by myself, the defendant and Miss Ginzberg.

7 THE COURT: How old is the defendant?

8 MR. PICKERSTEIN: Twenty-nine, your
9 Honor.

10 THE COURT: Mr. Palter, have you had an
11 opportunity to read this letter, and does your signa-
12 ture, which appears at the bottom of the letter,
13 indicate that you have read the letter and understand
14 its contents?

15 MR. PALTER: Yes, your Honor.

16 THE COURT: Mr. Palter, I'm going to ask
17 you some questions, and do you recognize that you must
18 answer those questions truthfully?

19 MR. PALTER: Yes.

20 THE COURT: Have you had a full and
21 adequate opportunity to discuss with your attorney
22 the nature of the charges against you in Count Two?

23 MR. PALTER: Yes, your Honor.

24 THE COURT: Do you have any questions
25 with regard to the nature of Count Two and with respect

1 to the change of plea?

2 MR. PALTER: No.

3 THE COURT: Do you understand that I
4 will not accept your change of plea if you claim to
5 be innocent?

6 MR. PALTER: Yes.

7 THE COURT: With respect to Count Two,
8 do you admit that on or about May 16, 1974, to June,
9 1977, in the District of Connecticut, you, Andy Castro
10 and Owen Bradley Davies, who are named as conspirators,
11 and Edgar Velazquez, a co-conspirator, but not a
12 defendant, willfully and knowingly did conspire and
13 agree together, and perhaps with other persons that
14 the Grand Jury did not know about, manufacture a
15 quantity of amphetamines, and knowingly and willfully
16 did manufacture and attempt to manufacture a quantity
17 of methaqualone, a Schedule II. narcotic, which would
18 be a violation of federal law, do you admit to that?

19 MR. PALTER: Yes, sir.

20 THE COURT: Do you have any reason to
21 believe that the government could not prove that the
22 defendant was part of a conspiracy, that the defendants,
23 including yourself and one Edgar Velzaquez, did
24 purchase chemicals, supplies and equipment used in
25 the name of Poly-Chem Service Company and Thompson

1 Research Company, East Haven, Connecticut; SGA
2 Scientific Corporation, Bloomfield, New Jersey;
3 Macallister Bicknell Company, New Haven; J. T. Baker
4 Chemical Company, New Jersey and Ventron Corporation
5 in Massachusetts.

6 Do you have any reason to believe that
7 the government could not prove that overt action?

8 MR. PALTER: No.

9 THE COURT: The government alleges that
10 it could prove that at least one of you did elicit
11 these chemicals to induce a chemical reaction necessary
12 to produce amphetamines and convert them to a tablet
13 form. Do you believe they could not prove that?

14 MR. PALTER: No.

15 THE COURT: With respect to the three
16 overt acts, the government states that it was part of
17 the conspiracy that you and your conspirators would,
18 and did, purchase a quantity of O-Toluidine from the
19 Macallister Bicknell firm of Connecticut and did
20 purchase a tank of chlorine gas from Cryo Dyne
21 Corporation of New Haven in an attempt to induce a
22 chemical reaction necessary to produce this methaqualone.

23 Do you admit that the government could
24 prove that?

25 MR. PALTER: Yes.

1 THE COURT: You have generally told me
2 that you were guilty of the acts set forth in Count
3 Two, but I want to go over some of the essential
4 elements in a little bit more detail, to be sure that
5 you fully understand.

6 First of all, the government would have
7 to prove that you, Castro, Davies, the other named
8 and unnamed persons, involved in this conspiracy,
9 actually got together and either implicitly or expressly
10 agreed to commit these acts.

11 Now, the government does not have to
12 prove that you sat down and signed a contract or an
13 express agreement, but that this was an understanding
14 with you that you were involved in these acts. Do you
15 believe that the government could show that at trial?

16 MR. PALTER: Yes.

17 THE COURT: The government would have
18 to prove that you were not an innocent bystander, that
19 you had to act willfully and knowingly, that is, with
20 criminal intent, with a knowledge of what you were
21 doing, not because of some innocent mistake, even some
22 negligence or gross negligence; but that you went in
23 with eyes wide open; that these were criminal acts.
24 Do you agree that the government could show that at
25 trial?

1 MR. PALTER: Yes, your Honor.

2 THE COURT: Do you understand that you
3 need not change your plea to Count Two, and if your
4 plea of not guilty remained with respect to Count Two,
5 you would have an immediate trial? Miss Ginzberg
6 would represent you and the government would have to
7 prove beyond a reasonable doubt each and every element
8 at the trial. You would have a right to confront the
9 government witnesses, and if you wish, you could call
10 your own witnesses. By your change of plea, you are
11 waiving your constitutional rights. Do you understand
12 that?

13 MR. PALTER: Yes.

14 THE COURT: And you understand you are
15 not going to have a trial?

16 MR. PALTER: Yes.

17 THE COURT: Is it of your free will?

18 MR. PALTER: Yes.

19 THE COURT: Has anyone tried to influence
20 you or coerce you in this regard?

21 MR. PALTER: No.

22 THE COURT: You have agreed that you
23 signed your name to the letter acknowledging what the
24 plea negotiations were and your acceptance of them,
25 but I would like, at least in substance, to go over

1 them.

2 The government, in effect has offered
3 you the opportunity to change your plea to not guilty
4 on Count Two.

5 MR. PALTER: That is right.

6 THE COURT: The government agrees,
7 therefore, that Count One will be dismissed at the time
8 of sentencing. That was promised to you.

9 MR. PALTER: Yes.

10 THE COURT: Now, in exchange for that,
11 you have agreed to give your full cooperation to the
12 government, which would include truthful testimony
13 against Castro and Davies, who are the remaining
14 defendants in this case; moreover, the government
15 expects you to give complete and truthful information
16 as to all your activities with respect to the manu-
17 facture and distribution of controlled substances
18 encompassed during the period of the indictment.

19 MR. PALTER: Yes.

20 THE COURT: And the government, in
21 exchange, states that it would inform me, or the
22 sentencing court, of your cooperation. The government
23 has agreed to do that, is that your understanding?

24 MR. PALTER: Yes, sir.

25 THE COURT: The government goes on to

1 state that no other promises have been made to you
2 or your attorney by Mr. Pickerstein or any agent or
3 officer of the United States government. Do you agree
4 to that?

5 MR. PALTER: Yes, sir.

6 THE COURT: The government made one
7 other promise to you. It stated that if you do
8 cooperate fully, it will not prosecute you for any
9 offense other than Count Two, for or on account of
10 any transaction or matter concerning Count Two which
11 you may testify to or give information to the govern-
12 ment and no such testimony or information can be used
13 against you in any court of law. You agree that the
14 government has offered you that promise?

15 MR. PALTER: Yes.

16 THE COURT: Have I covered all the
17 promises made to you?

18 MR. PALTER: Yes.

19 THE COURT: Have any promises been made
20 to you as to the exact term of punishment that will be
21 imposed upon you?

22 MR. PALTER: No.

23 THE COURT: Do you realize that you
24 could be punished for five years and fifteen thousand
25 dollars? Do you understand what the special parole

1 plan is?

2 MR. PALTER: Yes. That has been explained
3 to me.

4 THE COURT: Has it been explained to you
5 that in the two-year special parole plan that I must
6 impose a minimum, mandatory sentence; that I have to
7 do that?

8 MR. PALTER: Yes, sir.

9 THE COURT: Do you further understand
10 that if this special parole is revoked because of
11 violation, the original term shall be increased by a
12 period of the special parole?

13 MR. PALTER: Yes.

14 THE COURT: Do you understand that it
15 is not diminished by the time spent on the special
16 parole in the event the term of imprisonment is imposed.
17 Do you understand that?

18 MR. PALTER: Yes, sir.

19 THE COURT: Now, I would like to ask
20 Miss Ginzberg if you know any reason why the client
21 should not change his plea in Count Two?

22 MISS GINZBERG: No, your Honor.

23 THE COURT: Mr. Pickerstein, if the
24 government could prove the charges beyond a reasonable
25 doubt, and if so, what could they prove?

1 MR. PICKERSTEIN: The government would
2 prove that during the month of September, 1972, the
3 defendant Palter met the defendant Davies in Brooklyn,
4 New York. At this time, we will prove that Palter and
5 Davies had a discussion concerning the manufacture of
6 amphetamine. We will prove that in April of 1973, the
7 defendant Davies purchased a Parr hydragenator and
8 various chemical precursors for amphetamine, using
9 the name Rly-Chem Service Company, Westport, Connecti-
10 cut. We will prove that in May, 1973, the defendant
11 Davies attempted to make amphetamine at Palter's
12 apartment in Queens, but that this attempt failed. We
13 will prove that in June, 1973, Davies again attempted
14 to manufacture amphetamine and again failed. We will
15 prove that in August of 1973, the defendant Davies
16 moved in with the defendant Palter in New York City,
17 storing his laboratory equipment with his parents in
18 Redding, Connecticut. We will prove that in July of
19 1973, the defendant Castro joined the group. We will
20 prove that Castro's function in the group was to
21 distribute the amphetamine. We will prove that in
22 October and November, 1973, the defendant Davies
23 successfully manufactured a quantity of amphetamines
24 in Redding, Connecticut. We will prove that the
25 defendant Davies and the defendant Palter then diluted

1 the amphetamine powder and made it into capsules,
2 which they then sold to Castro who in turn sold the
3 amphetamine in New York City. We will prove that
4 until the spring of 1974, Palter, Davies and Castro
5 manufactured and distributed amphetamine producing a
6 batch of amphetamine approximately once every two
7 weeks. We will prove that in the spring of 1974, the
8 operation ceased until December of 1974 when the
9 defendant Davies again began making amphetamines in
10 Milford, Connecticut. We will prove that from December,
11 1974, until March, 1975, Davies manufactured
12 amphetamines producing a batch approximately once
13 every two weeks. We will prove that during this
14 period of time, Davies sold the amphetamines directly
15 to the defendant Castro, who then distributed them.
16 We will also prove that during this period of time,
17 the ingredients and precursors were obtained using
18 the name Poly-Chem Service Company.

19 We will prove that in June, 1976,
20 Palter re-established contact with Davies and at this
21 time the defendant Castro introduced his cousin, one
22 Edgar Velazquez to the group.

23 We will prove that in September and
24 October, 1976, Castro and Velazquez rented a house
25 in Bridgeport, Connecticut and attempted unsuccessfully

1 to manufacture amphetamine.

2 We will prove that in January, 1977,
3 Velazquez rented a house located at 186 Cosey Beach
4 Road, East Haven, Connecticut, for purposes of a
5 laboratory to produce amphetamines.

6 We will prove that from January to
7 April, 1977, Velazquez manufactured approximately
8 one hundred grams of amphetamine a week which he
9 then gave to defendant Castro who sold it. During
10 this period of time we will prove that both Castro,
11 Palter and Velazquez obtained a necessary precursor,
12 lithium aluminium hydride, from SGA Scientific
13 Corporation in New Jersey.

14 We will prove that in April, 1977, the
15 defendant Davies attempted to purchase lithium aluminium
16 hydride from Ventron Corporation in Massachusetts but
17 that Ventron did not deliver the lithium aluminium
18 hydride.

19 We will prove that during this entire
20 period of time the sole purpose of Poly-Chem Service
21 Company was to provide a corporation to establish
22 the ingredients from amphetamine.

23 We will prove that on April 15, 1977,
24 Davies telephonically contacted Ventron Corporation
25 and inquired about amounts and prices for lithium

1 aluminium hydride, representing that he was from
2 Poly-Chem Service Company, 186 Cosey Beach Avenue,
3 East Haven. We will prove that on April 20, 1977,
4 Davies, representing Poly-Chem Service Company, 186
5 Cosey Beach Road, East Haven, contacted Foote Mineral
6 Company, Philadelphia, Pennsylvania, and inquired
7 about lithium aluminium hydride.

8 We will prove that on April 19, 1977,
9 representatives of Poly-Chem Service Company, East
10 Haven, Connecticut, purchased solvents, including ether
11 and alcohol.

12 We will prove that on February 23, 1977,
13 Edgar Velazquez, representing Poly-Chem Service Company,
14 had purchased ether and lithium aluminium hydride at
15 SGA Scientific, Bloomfield, New Jersey.

16 We will further prove that on March 24,
17 1977, Velazquez purchased ten pints of ether for
18 Poly-Chem Service from SGA Scientific.

19 We will prove that on May 11, 1977, the
20 defendant Palter, using his own name and personal
21 check, purchased two hundred grams of lithium aluminium
22 hydride at SGA Scientific, Bloomfield, New Jersey.
23 Palter, at this time, was accompanied by the defendant
24 Castro, and they indicated that the name Poly-Chem
25 Service was being changed to Thompson Research Company,

1 186 Cosey Beach Road, East Haven, Connecticut.

2 We will prove that on June 21, 1977,
3 federal agents executed a search warrant at the
4 premises located at 186 Cosey Beach Avenue, East Haven,
5 Connecticut, and found the defendant Castro on the
6 premises. The search of the premises disclosed a
7 laboratory for the manufacture of amphetamine, and
8 produced a quantity of amphetamine that had been
9 manufactured there.

10 The government will also introduce a
11 tape recording of a telephone conversation between
12 Velazquez and the defendant Davies wherein Velazquez
13 inquires of Davies as to certain problems that he was
14 having with the synthesis, and Davies gives him
15 advice as to the synthesis.

16 The government will prove that on June
17 20, 1977, Palter and Castro met at the 186 Cosey Beach
18 Road address in East Haven. We will show that they
19 left the premises, and went to Macallister Bicknell
20 Company in New Haven, where they purchased a quantity
21 of O-toluidine. We will also show that they purchased
22 a cylinder of chlorine gas. They then returned to
23 the house. We will show that O-toluidine and chlorine
24 gas are chemical precursors for methaqualone, a
25 Schedule II. controlled substance.

1 We will show that when the search
2 warrant was executed, stationery, bearing the name
3 Thompson Research Company, 186 Cosey Beach Road, East
4 Haven, Connecticut, and showing a billing address as
5 Palter's address in New York. We will also show conver-
6 sations on that date between Castro, Palter and
7 Velazquez concerning the manufacture of amphetamines.

8 Finally, the government will prove that
9 lithium aluminium hydride is an essential ingredient
10 to the manufacture of amphetamines, as is ether.

11 THE COURT: The government has reviewed,
12 in general, its case against you, Mr. Palter. Do you
13 have, or does your attorney have, any reason to
14 believe that the government could not prove what it
15 has stated it intended to prove at trial, but mostly
16 with respect to your participation? Is there anything
17 that needs commenting on in the way of denial.

18 MR. PALTER: No.

19 THE COURT: The plea of not guilty is
20 erased and the defendant may be put to plea to Count
21 Two, and if he is found guilty, it is a voluntary
22 plea.

23 THE CLERK: United States of America
24 versus Daniel Scott Palter, Criminal Case Number
25 N-77-89, as to Count Two of the indictment, how do

you plead?

MR. PALTER: Guilty.

THE COURT: Is there a problem on bond?

MR. PICKERSTEIN: Bond at large on ten thousand dollars personal recognizance. Travel limited to New York and Connecticut.

THE COURT: The same bond will be continued. Sentencing will be November 1st.

(Whereupon, the witness was excused
and the hearing was concluded.)

CERTIFICATE

I hereby certify that the foregoing 17 pages are a complete and accurate transcription of my stenotype notes taken in the case of the United States of America vs. Daniel Scott Palter, Criminal No. N-77-89, in the United States District Court for the District of Connecticut which was held in the Federal Building, New Haven, Connecticut, on September 27, 1977, before the Hon. Robert C. Zampano, Senior United States District Judge.

Anne Marie Ruby
Official Court Reporter

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

- - - - - X
: UNITED STATES OF AMERICA :
: :
: vs. : Criminal No.
: N-77-89
: :
: ANDREW CASTRO :
: :
- - - - - X

Federal Building
New Haven, Connecticut
September 27, 1977

B e f o r e :

HON. ROBERT C. ZAMPANO
Senior United States District Judge

A p p e a r a n c e s :

For the Government:

RICHARD BLUMENTHAL, ESQUIRE
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1 A p p e a r a n c e s (Continued) :

2 For the Defendant:

3 ANDREW B. BOWMAN, ESQUIRE
4 770 Chapel Street
5 New Haven, Connecticut 06510
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1 MR. BOWMAN: May my client be seated?

2 THE COURT: Yes.

3 Your attorney and the government have
4 agreed to dismiss Count One at the time of disposition.

5 MR. BOWMAN: We are prepared to change
6 the plea in Count Two.

7 THE COURT: Is that your understanding,
8 Mr. Castro.

9 MR. CASTRO: Yes.

10 THE COURT: How old is Mr. Castro?

11 MR. BOWMAN: Twenty-five.

12 THE COURT: Mr. Castro, do you fully
13 understand the nature of the charges against you in
14 Count Two?

15 MR. CASTRO: Yes, sir.

16 THE COURT: Have you had a full and
17 adequate opportunity to discuss with Mr. Bowman the
18 nature of the charges against you in Count One and Two
19 and the effect of the change of plea?

20 MR. CASTRO: Yes.

21 THE COURT: Do you understand that I
22 cannot change your plea if you claim to be innocent?

23 MR. CASTRO: Yes.

24 THE COURT: Do you admit to me that
25 you and Daniel Palter and Owen Davies, who are

1 conspirators and defendants, and Edgar Velazquez, a
2 co-conspirator, but not a defendant, willingly and
3 knowingly did conspire together, and perhaps with other
4 persons, to knowingly and intentionally and unlawfully
5 manufacture a quantity of amphetamines, a Schedule II.
6 narcotic, a controlled substance, and did knowingly
7 manufacture and attempt to manufacture a quantity of
8 a substance known as methaqualone, a Schedule II.
9 narcotic, a controlled substance, all of which are in
10 violation of the federal laws set forth in the document
11 I am reading at this time?

12 The government, in addition, states that as
13 part of a conspiracy, all of you, using the name
14 Poly-Chem Service Company and Thompson Research Company
15 did purchase these items from SGA Scientific Corpora-
16 tion, of Bloomfield, New Jersey, Macallister Bicknell
17 Company, of Connecticut, a firm in New Haven, and the
18 J. T. Baker Chemical Company of New Jersey, and Ventron
19 Corporation of Massachusetts and other suppliers. Do
20 you agree that the government could prove that overt
21 act at trial?

22 MR. CASTRO: Yes.

23 MR. BOWMAN: We have no dispute or
24 objection about J. T. Baker and Ventron Corporation,
25 but we do not admit to the others.

1 THE COURT: Another overt act to be
2 proved at trial, that all of you, through the conspiracy,
3 did purchase a quantity of chemical called O-toluidine
4 from the Macallister Bicknell Company of Connecticut
5 and a tank of chlorine gas from Cryo Dyne Corporation
6 of New Haven in an attempt to induce a chemical reaction
7 necessary to produce methaqualone.

8 Do you agree that the government could
9 prove that at trial?

10 MR. CASTRO: Yes.

11 THE COURT: That is generally your
12 admission of guilt, but I want to be more specific.
13 I want to make sure you know what you are pleading
14 guilty to.

15 The government would have to prove
16 that you and these other men got together and agreed
17 to violate the law, that doesn't mean you sat down and
18 signed a contract, or even that there was an expressed
19 agreement, but there was an implied agreement that
20 you would get together and do what the government will
21 claim. Do you have any reason to believe that the
22 government could not prove that?

23 MR. CASTRO: No.

24 THE COURT: The government would also
25 have to prove that there was a conspiracy and that you

1 were there, and they have to go beyond that and prove
2 that you actually were a participant, that you fostered
3 and helped this conspiracy to be successful to whatever
4 degree that it was, and that you weren't part of this
5 conspiracy through an innocent reason or any inadvert-
6 tence, or negligence, but willfully and knowingly
7 with criminal intent.

8 Do you have any reason to believe that
9 the government could not prove that?

10 MR. CASTRO: No.

11 THE COURT: You do admit that you were
12 part of the conspiracy and a participant in the
13 activities that went on?

14 MR. CASTRO: Yes.

15 THE COURT: Do you understand that if
16 you do not wish to change the plea in Count Two, that
17 in fact, we could select a jury today, and that you
18 would have a right to go to trial and Mr. Bowman would
19 represent you and the government would have to prove
20 the case beyond a reasonable doubt with respect to
21 each and every essential element?

22 You would have a right not to incriminate
23 yourself and call your own witnesses, but by changing
24 the plea, you are waiving those rights. Do you under-
25 stand that?

1 MR. CASTRO: Yes.

2 THE COURT: You understand that you are
3 not going to have a trial?

4 MR. CASTRO: Yes.

5 THE COURT: Is your change of plea of
6 your own free will?

7 MR. CASTRO: Yes.

8 THE COURT: Has anyone induced you or
9 coerced you or influenced you to plead guilty against
10 your will?

11 MR. CASTRO: No, sir.

12 THE COURT: You are aware that there
13 have been some plea negotiations?

14 MR. CASTRO: Yes.

15 THE COURT: Has anyone promised you
16 what the sentence might be in this case?

17 MR. CASTRO: No.

18 THE COURT: Mr. Pickerstein?

19 MR. PICKERSTEIN: Sentence five years,
20 fifteen thousand dollars, and a two-year special parole
21 term.

22 THE COURT: Do you understand that this
23 is the sentence you are exposed to?

24 MR. CASTRO: Yes.

25 THE COURT: With respect to the special

1 parole term, has your attorney explained that to you?

2 MR. CASTRO: Yes.

3 THE COURT: It means that if a term of
4 imprisonment is imposed, a special parole term will be
5 imposed, a minimum mandatory sentence of two years, as
6 a special parole term. If this is revoked because you
7 violated parole, the original term of imprisonment will
8 be increased by the period of the special parole term.
9 In other words, this is just an example. If you receive
10 a sentence of three years, for example, and a special
11 parole term of two years, and while you are on parole,
12 you violated parole, you would have to serve more time.
13 Do you understand that?

14 MR. CASTRO: Yes.

15 MR. BOWMAN: He is eligible for the
16 Youth Correction Act.

17 THE COURT: Because of your age, you are
18 eligible to a sentence of the Youth Corrections Act.
19 I have no way of knowing if I am going to impose that
20 Youth Corrections Act. I have to wait to read the
21 pre-sentence report. The act was designed to provide
22 a better manner of treating those under twenty-six, to
23 rehabilitate them, to restore lawful behavior patterns.
24 There is a Youthful Correction Division to run this
25 program. Under this act, you can get probation, you

1 can be committed to a youth facility under the super-
2 vision of the Youth Division, but in no case beyond four
3 years. Do you understand that?

4 MR. CASTRO: Yes.

5 THE COURT: If the court should find
6 that the youth offender would not benefit from the
7 Youth Corrections Act, you could be sentenced as an
8 adult. Do you understand that?

9 MR. CASTRO: Yes.

10 THE COURT: The advantages of the Youth
11 Corrections Act, if you comply with all the rules and
12 regulations, you are discharged on probation and shall
13 automatically set aside your conviction. This doesn't
14 undo the fact that you have been convicted, but it has
15 certain benefits.

16 Do you have any questions about the Youth
17 Corrections Act?

18 MR. CASTRO: No.

19 THE COURT: Do you know any reason why
20 the plea to Count Two should not be changed?

21 MR. BOWMAN: No, sir.

22 MR. PICKERSTEIN: The government could
23 prove each and every charge beyond a reasonable doubt.

24 MR. BOWMAN: I will stipulate to the
25 statements in the Palter case, since Mr. Palter is a

1 co-defendant in this case.

2 THE COURT: Were you in court when
3 Mr. Pickerstein presented Mr. Palter's case?

4 MR. BOWMAN: We heard everything with
5 respect to the factual basis.

6 THE COURT: Mr. Pickerstein, why don't
7 you just make a statement.

8 MR. PICKERSTEIN: The government would
9 show that in the summer of 1976, Castro entered into
10 a conspiracy and from that point he and Palter manu-
11 factured amphetamines in a rented house in Bridgeport,
12 Connecticut.

13 They purchased chemicals which are
14 precursors for amphetamines and operated a laboratory
15 in East Haven, Connecticut. Castro assisted in the
16 purchase of the drugs and they were so manufactured.

17 THE COURT: Would you like to comment
18 or challenge in any way the statements made by Mr.
19 Pickerstein with respect to your client's participation
20 as set forth in the Palter case?

21 MR. BOWMAN: The only comment would be
22 that his entry was in June of 1976. We admit, as Mr.
23 Pickerstein has said, to the purchasing of chemicals,
24 but we deny actually cooking these ingredients to make
25 them into amphetamines.

1 THE COURT: Is there any question,
2 based on your objection, that Mr. Castro is guilty
3 to the charges as set forth in Count Two?
4

5 MR. BOWMAN: No.

6 THE COURT: Do you agree, Mr. Castro?

7 MR. CASTRO: Yes.

8 THE COURT: The court is satisfied that
9 the defendant's motion to set aside not guilty to Count
10 Two is erased, and he may be put to plea on Count Two,
11 and if he pleads guilty, it is a voluntary one.

12 THE CLERK: Criminal Case Number N 77-89,
13 United States of America versus Andy Castro, on Count
14 Two of the indictment, how do you plead?

15 MR. CASTRO: Guilty.

16 THE COURT: What about bond?

17 MR. PICKERSTEIN: The same bond, and
18 sentencing on November 1st.

19 THE COURT: Yes.

20 MR. BOWMAN: May I make a request? I
21 have discussed the sentencing date with my client who
22 was present when you set the sentencing date for Palter.
23 They do know each other; that is no secret. He would
24 rather be sentenced at a different time. I explained
25 that it is a matter of the court's discretion.

THE COURT: I will set it down for the

1 25th.

2 (Off the record discussion.)

3 MR. BOWMAN: May we reconsider and keep
4 it at the 1st?

5 THE COURT: I will be available the
6 25th of October or the 31st, if you wish to have it
7 scheduled on either of those days.

8 (Whereupon, the witness was excused
9 and the hearing was concluded.)

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13 CERTIFICATE

14 I hereby certify that the foregoing 12 pages
15 are a complete and accurate transcription of my stenotype
16 notes taken in the case of the United States of America
17 vs. Andrew Castro, Criminal No. N-77-89, in the United
18 States District Court for the District of Connecticut
19 which was held in the Federal Building, New Haven,
20 Connecticut, on September 27, 1977, before the Hon.
21 Robert C. Zampano, Senior United States District Judge.

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23
24

Anne Marie Ruby
Official Court Reporter
25

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

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UNITED STATES OF AMERICA,

Plaintiff

vs.

OWEN BRADLEY DAVIES,

Defendant.

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Criminal No. N 77-89

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Federal Building
Third Floor Courtroom
New Haven, Connecticut

October 7, 1977

B e f o r e :

The Honorable Robert C. Zampano
Senior United States District Judge

A p p e a r a n c e s :

For the Plaintiff:

H. JAMES PICKERSTEIN
P. O. Box 1824
New Haven, Connecticut 06508

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A p p e a r a n c e s (Continued):

For the Defendant:

THOMAS D. CLIFFORD
799 Main Street
Hartford, Connecticut

1 MR. PICKERSTEIN: Your Honor, I believe
2 the first matter on change of plea this
3 morning is Criminal N-77-89, United States of
4 America against Owen Bradley Davies.

5 Mr. Davies is represented by Attorney
6 Clifford.

7 A change of plea with respect to
8 Count Two of the indictment is anticipated.

9 THE COURT: Have there been any plea
10 negotiations in this case?

11 MR. PICKERSTEIN: Your Honor, the
12 Government has agreed with respect to the
13 defendant Davies that upon his plea and
14 acceptance to the plea to Count Two of the
15 indictment, Count One of the indictment will
16 be dismissed.

17 Mr. Clifford and I have also discussed
18 the matter of Mr. Davies cooperation. I believe
19 Mr. Davies has evidenced an intention to co-
20 operate with the Government, and we have agreed
21 that whatever cooperation Mr. Davies shows to
22 the Government will be made known to the
23 sentencing court.

24 Apart from that, I am aware of no other
25 negotiations or promises.

1
2 THE COURT: Have any promises been made
3 by the Government to recommend a particular
4 sentence in this case?

5 MR. PICKERSTEIN: No, Your Honor. There
6 have not been.

7 THE COURT: Mr. Clifford, with respect
8 to the plea negotiations, do you agree with
9 Mr. Pickerstein?

10 MR. CLIFFORD: I do, Your Honor.

11 THE COURT: Mr. Davies, are you aware of
12 any other promises made to you by the Government?
13 In other words, the Government has stated that
14 the only promises made to you are: (1) That
15 at the time of sentencing under Count Two,
16 Count One will be dismissed; and (2) That if
17 you cooperate with the Government, the fact of
18 cooperation will be made known to the Court,
19 but that no promises have been made to you with
20 respect to any particular sentence.

21 Is that your full understanding?

22 MR. DAVIES: Yes, Your Honor.

23 THE COURT: Do you have any other
24 understandings?

25 MR. DAVIES: None.

THE COURT: How old are you, Mr. Davies?

1 MR. DAVIES: Twenty-nine.

2 THE COURT: Mr. Davies, do you understand
3 that I am going to ask you some questions and
4 that your responses must be truthful? Do you
5 understand that?

6 MR. DAVIES: Yes, sir.

7 THE COURT: Very well. Do you fully
8 understand the nature of the charge against
9 you in Count Two?

10 MR. DAVIES: Yes.

11 THE COURT: Have you had a full and
12 adequate opportunity to discuss with Mr. Clifford
13 the effect of your change of plea?

14 MR. DAVIES: Yes, I have.

15 THE COURT: Do you have any questions
16 concerning the nature of the charge against you
17 or the effect of your change of plea to Count
18 Two that you would like to ask me?

19 MR. DAVIES: Yes, Your Honor.

20 THE COURT: Do you understand that I cannot
21 and will not accept your change of plea from
22 not guilty to guilty if you claim to be
23 innocent? Do you understand that?

24 MR. DAVIES: Yes.

25 THE COURT: In other words, do you admit

1 in open court that from on or about May 16, 1974
2 to on or about June 21, 1977, Daniel Scott Palter,
3 Andrew Castro and you, who are named as co-
4 conspirators and defendants in Count Two, got
5 together and combined and agreed with each
6 other, and perhaps with persons/ ^{unknown} to the Grand
7 Jury, to knowingly and intentionally manufacture
8 unlawfully a quantity of an amphetamine, a
9 Schedule II non-narcotic controlled substance,
10 and this involved knowingly and intentionally
11 manufacturing or attempting to manufacture a
12 quantity of the drug known as methaqualone,
13 which is a Schedule II non-narcotic controlled
14 substance, which would all be a violation of
15 Federal Law.

16 First of all, do you admit that?

17 MR. DAVIES: Yes, Your Honor.

18 THE COURT: Do you admit that the Government
19 as part of its case could prove one or more of
20 the following overt acts -- which ones are most
21 pertinent to his case or are they all?

22 MR. PICKERSTEIN: They're all pertinent,
23 Your Honor, but the Government will rely
24 specifically on overt acts 1 and 2.

25 THE COURT: Do you have any doubt that the

1
2 Government at trial could prove that it was
3 part of the conspiracy that you as well as your
4 co-conspirators did purchase certain chemicals,
5 supplies and equipment, and the name used was
6 Poly-Chem Service Company, and also -- I'm
7 sorry.

8 MR. CLIFFORD: Your Honor, my only
9 objection to that question is that I think you
10 said that "you and your co-conspirators did,
11 in fact, purchase . . . " .

12 It is my understanding of the conspiracy
13 law that once there is an agreement, the act
14 by or on behalf of one conspirator would be
15 made on behalf of them all.

16 THE COURT: It is "you or".

17 MR. CLIFFORD: Yes. Oh, I'm sorry. Okay.

18 THE COURT: I meant you or one of your
19 co-defendants did purchase certain chemicals,
20 supplies and equipment, and that the name used
21 was Poly-Chem Service Company and Thompson
22 Research Company, and that the purchase was
23 made from a company known as SGA Scientific,
24 Inc., which is located at 735 Broad Street in
25 Bloomfield, New Jersey; Macallister Bicknell of
Connecticut, Inc., from New Haven, Connecticut;

1
2 J. T. Baker Chemical Company, Phillipsburg,
3 New Jersey; and Ventron Corporation, Danvers,
4 Massachusetts, and perhaps there were other
5 suppliers.

6 Do you doubt that the Government could
7 prove that overt act?

8 MR. DAVIES: No, Your Honor.

9 THE COURT: All right. The Government also
10 claims that it would prove at trial as one of
11 its overt acts as part of its case that the
12 defendant and/or you or all of you or any one
13 of you singly would and did utilize these
14 chemicals, supplies and equipment to induce
15 chemical reaction necessary to produce
16 amphetamines and to convert the amphetamine to
17 a tablet form by means of a homemade pill press.

18 Do you admit the Government could prove
19 that at trial?

20 MR. DAVIES: Yes, Your Honor.

21 THE COURT: All right. Now, let me go
22 back to go over this conspiracy count with you.
23 You have told me that there is no doubt in your
24 mind the Government could prove your guilt under
25 Count Two, but I want to make sure you fully
realize the import of your statement.

1
2 The Government at trial would have to
3 prove that there was a conspiracy. Now, a
4 conspiracy means an agreement among persons to
5 violate the law. A mere spectator, a mere
6 observer would not be part of a conspiracy. The
7 person who is involved in the conspiracy has to
8 be part of the agreement.

9 Now, that doesn't mean you sat down and
10 signed a contract to violate the law. It means
11 that you agreed implicitly or explicitly that
12 you would act together or were acting together
13 to commit a crime.

14 Do you admit you did that with one or more
15 of the persons named in Count Two?

16 MR. DAVIES: Yes, Your Honor.

17 THE COURT: Now, the second crucial essential
18 element of the crime is that the Government has
19 to prove that you did this wilfully and not
20 because of some inadvertent, some negligent,
21 some innocent reason. It has to be knowingly
22 done, that is, purposely, with a full under-
23 standing that you are committing a crime and
24 what you are doing is wrong.

25 Do you admit that you had that intention
and that knowledge?

1
2 MR. DAVIES: Yes, Your Honor.

3 THE COURT: All right. And, of course, the
4 third thing is the Government has to prove an
5 overt act by either you, you in combination with
6 others or all of you together, and we discussed
7 that thoroughly, and you admit the Government
8 could prove one or more overt acts in this case?

9 MR. DAVIES: Yes, sir.

10 THE COURT: Now, do you understand you need
11 not change your plea to Count Two, and if you
12 did not change your plea, you would be entitled
13 to a trial?

14 MR. DAVIES: Yes, sir.

15 THE COURT: We could give you one very
16 shortly. It would be a trial at which
17 Mr. Clifford would represent you. The Government
18 would have to prove each and every essential
19 element of the crime charged beyond a reasonable
20 doubt. You would have a right to confront and
21 cross examine the Government's witnesses. You
22 would have a right not to incriminate yourself,
23 and if you wish, you could call your own witnesses.

24 Do you understand that by your change of
25 plea you are waiving those constitutional rights,
Mr. Davies?

1
2 MR. DAVIES: Yes, I do.

3 THE COURT: Do you further understand you
4 are not going to get a trial on this charge?

5 MR. DAVIES: Yes, Your Honor.

6 THE COURT: All right. Now, is your plea
7 of guilty of your own free will?

8 MR. DAVIES: Yes, it is.

9 THE COURT: Has anyone induced you or
10 coerced you or in any way influenced you to
11 plead guilty against your will?

12 MR. DAVIES: No, Your Honor.

13 THE COURT: With respect to the promises
14 made to you, I want to just make sure that I
15 have covered them thoroughly. The Government
16 said at the time of sentencing under Count Two
17 it will dismiss Count One, and that is your
18 understanding?

19 MR. DAVIES: Yes, sir.

20 THE COURT: Also, that if you do cooperate
21 with the Government, the Government will make
22 the extent and nature of your cooperation known
23 to the Court. Is that your understanding?

24 MR. DAVIES: Yes, sir.

25 THE COURT: The Government was careful
though to inform the Court that it made no
promises whatever on what the sentence might or

1 should be in this case. Is that correct?

2 MR. DAVIES: Yes, Your Honor.

3 THE COURT: Very well. Now, you do realize
4 that you may be punished as a result of your
5 change of plea?

6 MR. DAVIES: Yes, I do.

7 THE COURT: And what is the sentence he is
8 exposed to?

9 MR. PICKERSTEIN: The maximum sentence on
10 Count Two is five years incarceration and/or
11 \$15,000 fine, and if the Court should impose any
12 term of incarceration in addition to the above
13 five years and the \$15,000, the Court must impose
14 a special parole term of two years.

15 THE COURT: All right. Is that your under-
16 standing of the sentence you are exposed to,
17 Mr. Davies?

18 MR. DAVIES: Yes, it is, Your Honor.

19 THE COURT: All right. The only aspect of
20 it, I think, that perhaps needs some amplifica-
21 tion is the two year special term in the event
22 you are incarcerated.

23 Now, I have to impose that special parole
24 term in the event of incarceration, and that
25 would be a special parole term in addition to

1
2 the term of imprisonment, if you got a term of
3 imprisonment.

4 Now, if this special parole term is revoked
5 because you violated some of the rules and
6 regulations while on parole, the original term
7 of imprisonment is increased by the period of
8 the special parole term.

9 Do you understand that?

10 MR. DAVIES: Yes, Your Honor.

11 THE COURT: Do you understand the new term
12 of imprisonment shall not be diminished by the
13 time which was spent on special parole? Do you
14 understand that?

15 MR. DAVIES: I do.

16 THE COURT: And, of course, a person whose
17 special parole term has been revoked may be
18 liable to serve all or part of the remainder of
19 the new term of imprisonment. Do you understand
20 that?

21 MR. DAVIES: Yes, Your Honor.

22 THE COURT: All right. Now, I would like
23 to ask Mr. Clifford whether he knows of any
24 reason why Mr. Davies should not plead guilty.

25 MR. CLIFFORD: I know of no reason, Your
Honor. The record should reflect this has been

1 an open file case from the Government. I think
2 I unconditionally have almost everything they
3 have, and that has been shown and discussed with
4 Mr. Davies at great, great length.

5 Any possible defenses that were available
6 have been researched and have been discussed
7 with Mr. Davies.

8 I don't think it is necessary to put those
9 on the record, but they have been discussed with
10 him, and he understands what they were, and they
11 are probably not valid.

12 THE COURT: I am sure, Mr. Clifford, you
13 were most careful. With your distinguished
14 background, I am sure no one of your clients has
15 ever pleaded to a charge that in your mind was
16 not a proper procedure.

17 Now, I would like to ask Mr. Pickerstein as
18 an officer of this court if he represents that
19 he is of the opinion that if this case went to
20 trial the Government could prove each and every
21 essential element of the crime charged beyond a
22 reasonable doubt, and if so, on what is that
23 based?

24 The record should note that the Court is
25 generally familiar, and I would say actually

1
2 specifically familiar with this case because I
3 have received the pleas of guilty from Mr. Palter
4 and Mr. Castro at which time the Government at
5 great length discussed the cases as against all
6 the defendants, including Davies, but I think
7 at least briefly for the record, you should
8 state what the Government's case is, although I
9 am well aware of it.

10 MR. PICKERSTEIN: Very well, Your Honor.
11 The Government will make the same Rule 11
12 presentation as we did in the Palter and the
13 Castro matter. I think I should put the whole
14 thing on the record.

15 THE COURT: Yes.

16 MR. PICKERSTEIN: Were this case to go to
17 trial with respect to Count Two of the indictment,
18 the Government would prove that in September
19 1972, the defendant Palter met the defendant
20 Davies in Brooklyn, New York. At this time, we
21 will prove that Palter and Davies had a discussion
22 concerning the manufacture of amphetamine.

23 We will prove that during the month of April
24 1973, the defendant Davies purchased a Parr
25 hydragenator and various chemical precursors for
amphetamine, using the name Poly-Chem Service

1
2 Company, Westport, Connecticut.

3 We will prove that in May of 1973, the
4 defendant Davies attempted to make amphetamines
5 in Palter's apartment in Queens, New York, but
6 that this attempt failed.

7 We will prove that in June of 1973, the
8 defendant Davies again attempted to manufacture
9 amphetamines and again failed.

10 We will prove that during the month of
11 August of 1973, the defendant Davies moved in
12 with the defendant Palter in New York City,
13 storing his laboratory equipment with his parents
14 in Redding, Connecticut.

15 We will prove that in July of 1973, the
16 defendant Castro joined the group. We will prove
17 that Castro's function in the group was to
18 distribute the amphetamine.

19 We will prove that in October and November
20 of 1973, the defendant Davies successfully manu-
21 factured a quantity of amphetamines in Redding,
22 Connecticut. We will prove that the defendant
23 Davies and the defendant Palter then diluted the
24 amphetamine powder and made it into capsules,
25 which they then sold to Castro who in turn sold
the amphetamine in New York City.

1 We will prove that until the Spring of
2 1974, Palter, Davies and Castro manufactured
3 and distributed amphetamine, producing a batch
4 of amphetamine approximately once every two
5 weeks.

6 We will prove that in the spring of 1974,
7 the operation ceased until December of 1974,
8 when the defendant Davies again began making
9 amphetamines in Milford, Connecticut. We will
10 prove that from December, 1974 until March,
11 1975, Davies manufactured amphetamines, producing
12 a batch of approximately once every two weeks.

13 We will prove that during this period of
14 time, Davies sold the amphetamines directly to
15 the defendant Castro, who then distributed them.
16 We will also prove that during this period of
17 time, the ingredients and precursors were
18 obtained using the name Poly-Chem Service Company

19 We will prove that during the month of June,
20 1976, Palter re-established contact with Davies,
21 and that at this time the defendant Castro
22 introduced his cousin, one Edgar Velazquez to
23 the group.

24 We will prove that in September and October
25 1976, Castro and Velazquez rented a house in

1 Bridgeport, Connecticut and attempted unsuccessful-
2 fully to manufacture amphetamines.

3 We will prove that in January 1977,
4 Velazquez rented a house located at 186 Cosey
5 Beach Road, East Haven, Connecticut, for purposes
6 of a laboratory to produce amphetamines.

7 We will show that from January to April,
8 1977, Velazquez manufactured approximately
9 100 grams of amphetamine a week, which he then
10 gave to the defendant Castro to sell. During
11 this period of time we will show that both
12 Castro, Palter and Velazquez obtained a necessary
13 precursor, lithium aluminium hydride, from
14 SGA Scientific Corporation in New Jersey.

15 We will prove that in April of 1977, the
16 defendant Davies attempted to purchase lithium
17 aluminum hydride from Ventron Corporation in
18 Danvers, Massachusetts, but that Ventron did
19 not deliver the lithium aluminum hydride.

20 We will prove that during this entire
21 period of time, the sole purpose of Poly-Chem
22 Service Company was to provide a name to obtain
23 the ingredients to manufacture amphetamines.

24 We will prove that on April 15, 1977, the
25 defendant Davies telephonically contacted

1
2 Ventron Corporation and inquired about amounts
3 and prices for lithium aluminum hydride, repre-
4 senting that he was from Poly-Chem Service
5 Company, 186 Cosey Beach Avenue, East Haven,
6 Connecticut.

7 We will prove that on April 20, 1977,
8 Davies, representing Poly-Chem Service Company,
9 186 Cosey Beach Road, East Haven, Connecticut,
10 contacted Foote Mineral Company, Philadelphia,
11 Pennsylvania, and inquired about lithium aluminum
12 hydride.

13 We will prove that on April 19, 1977,
14 representatives of Poly-Chem Service Company,
15 East Haven, Connecticut, purchased solvents,
16 including ether and alcohol.

17 We will prove that on February 23, 1977,
18 Edgar Velazquez, representing Poly-Chem Service
19 Company, had purchased ether and lithium aluminum
20 hydride at SGA Scientific, Bloomfield, New Jersey.

21 We will further prove that on March 24,
22 1977, Velazquez, acting on behalf of Poly-Chem
23 Service Company, purchased ten pints of ether
24 from SGA Scientific.

25 We will prove that on May 11, 1977, Palter,
using his personal check, purchased 200 grams of

1 lithium aluminum hydride at SGA Scientific,
2 Bloomfield, New Jersey. At this time he was
3 accompanied by the defendant Castro. Palter at
4 this time stated that the name Poly-Chem Service
5 Company had been changed to that of Thompson
6 Research Company, Cosey Beach Ave. in East Haven.
7

8 We will show that on June 21, 1977, federal
9 agents executed a search warrant at the premises
10 located at 136 Cosey Beach Avenue, East Haven,
11 Connecticut and found the defendant Castro on
12 the premises. The search of the premises
13 disclosed a laboratory for the manufacture of
14 amphetamine, and produced a quantity of ampheta-
15 mine that had been manufactured there.

16 The Government will also introduce a tape
17 recording of a telephone conversation between
18 Velazquez and the defendant Davies wherein
19 Velazquez inquires of Davies as to certain
20 problems that he was having with the synthesis,
21 and Davies gives him advice with respect to the
22 synthesis.

23 The Government will prove that lithium alum-
24 inum hydride is an essential ingredient to the
25 manufacture of amphetamine, as is ether.

The Government will prove that on June 20,

1
2 1977, Palter and Castro met at the 186 Cosey
3 Beach Avenue address in East Haven. We will
4 show that they left the premises and went to
5 Macallister Bicknell Company in New Haven, where
6 they purchased a quantity of O-toluidine.

7 We will also show that they purchased a
8 cylinder of chlorine gas and they then returned
9 to the house.

10 The Government will prove that O-toluidine
11 and chlorine gas are chemical precursors for
12 methaqualone, a schedule II controlled substance.

13 The Government will finally prove that an
14 amphetamine is a non-controlled narcotic substance

15 THE COURT: I would like to ask Mr. Clifford
16 and Mr. Davies whether any statements were made
17 by Mr. Pickerstein that they feel should be
18 modified, corrected, or otherwise commented on?

19 MR. CLIFFORD: Can I have just a second,
20 Your Honor?

21 THE COURT: Take all the time you want.

22 MR. CLIFFORD: May I respond first, Your
23 Honor?

24 THE COURT: Yes, by all means.

25 MR. CLIFFORD: Your Honor, Mr. Davies and
I would both agree with what I call the general

1
2 outline of what is a substantial Government
3 case. It involves tape recordings and tape
4 interceptions and other things. We would
5 dispute the details or what we call minor
6 inaccuracies and emphasis on the way this
7 statement of facts was made. I am not saying
8 that I dispute the substance or the general
9 outline, but I don't want to get boxed into that
10 statement of facts, and I may be before Your
11 Honor again and I may well want to contravert
12 the evidence in terms of minor inaccuracies or
13 the emphasis placed on it.

14 THE COURT: Based on your past experience
15 and vast knowledge of criminal law, Mr. Clifford,
16 were any of the so-called minor discrepancies
17 such that if there was a failure of proof on
18 those statements made by Mr. Pickerstein with
19 respect to those minor discrepancies, that in
20 your mind it would weaken the Government's case
21 so that Mr. Davies would be found not guilty?

22 MR. CLIFFORD: No, Your Honor. At best it
23 would be sort of a link-up of who is more
24 responsible than somebody else.

25 THE COURT: All right. Mr. Davies, do you
agree with your counsel's statements to the Court?

1
2 MR. DAVIES: Yes, I do, Your Honor.

3 THE COURT: Do you wish to add to them at
4 all?

5 MR. DAVIES: No.

6 THE COURT: Very well. The defendant's
7 motion to vacate and set aside his plea of not
8 guilty to Count Two is granted. The plea is
9 vacated and erased.

10 The defendant may now be put to plea, and
11 if he pleads guilty to Count Two, the Court
12 finds that it is a voluntary one.

13 MR. CLIFFORD: My client waives the reading
14 of the indictment, Your Honor.

15 THE CLERK: Thank you. United States of
16 America versus Owen Bradley Davies, Criminal
17 Number N-77-89. To Count Two of the indictment
18 charging you with violation of Title 21,
19 United States Code Section 846, what is your
20 plea?

21 MR. DAVIES: Guilty.

22 THE CLERK: Your Honor, the defendant pleads
23 guilty to Count Two.

24 THE COURT: Any problem on bond?

25 MR. PICKERSTEIN: No problem. May the same
bond continue, Your Honor?

1 THE COURT: It may..

2 MR. CLIFFORD: May I file my client's
3 written intention to file a guilty plea?

4 THE COURT: It may be so filed.

5 MR. PICKERSTEIN: The disposition of co-
6 defendants in this case, Palter and Castro, has
7 been set for November 1, 1977.

8 MR. RENDINO: It can be the same date,
9 Your Honor. There shouldn't be any problem.

10 THE COURT: Sentencing on November 1st at
11 10:00 o'clock.

12 MR. CLIFFORD: Your Honor, I am occupied
13 on that date out of state, as a matter of fact.

14 THE COURT: What is convenient for you?

15 MR. CLIFFORD: The next day would be fine.

16 THE COURT: Well, let's see. The day
17 before or --

18 MR. CLIFFORD: That is the problem. It is
19 Monday and Tuesday that I am out of state, Your
20 Honor.

21 THE COURT: All right. What is your
22 schedule later in the week?

23 MR. CLIFFORD: My schedule now for the
24 rest of the week looks clear, Your Honor. The
25 2nd, 3rd and 4th all look clear.

1
2 THE COURT: How about Friday, November 4th?

3 MR. CLIFFORD: Yes, sir. At ten?

4 THE COURT: At 10 o'clock.

5 MR. CLIFFORD: Yes, sir.

6 MR. PICKERSTEIN: That is agreeable,
7 Your Honor.

8 MR. RENDINO: That is fine, Your Honor,
9 thank you.

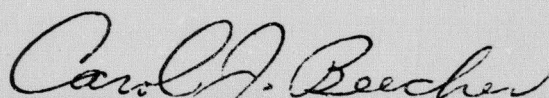
10 MR. CLIFFORD: Thank you very much, Your
11 Honor.

12 THE COURT: All right.

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15 * * * * *

CERTIFICATE

I hereby certify that the foregoing
25 pages are a complete and accurate transcription of my
original shorthand notes of the case of United States
versus Owen Bradley Davies, Criminal No. N 77-89, held
before The Honorable Robert C. Zampano in New Haven,
Connecticut, on Friday, October 7, 1977.



Carol J. Beecher, C.S.R.
Official Court Reporter

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

- - - - - x

UNITED STATES OF AMERICA,

:

Plaintiff,

:

vs.

: Criminal N-77-89

DANIEL SCOTT PALTER,

:

Defendant.

:

- - - - - x

Federal Building
Third Floor Courtroom
New Haven, Connecticut

November 21, 1977

B e f o r e :

The Honorable ROBERT C. ZAMPANO
Senior United States District Judge

A p p e a r a n c e s :

For the Plaintiff:

H. JAMES PICKERSTEIN
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1 **A p p e a r a n c e s (Continued):**

2

3 **For the Defendant:**

4 **SHEILA GINZBERG**
5 **40 West 57th Street**
6 **New York, New York**

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MR. PICKERSTEIN: The first matter on the
calendar this morning is Criminal No. N-77-89,
United States of America against Daniel Scott
Palter. Mr. Palter is represented by Attorney
Sheila Ginzberg.

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The Government has no comments other than
what has been placed in the record.

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THE COURT: Well, the sentencing in that
case involves actually three persons, Messrs.
Castro, Palter and Davies, and I know the
attorneys are concerned that there might be
some information supplied to the Court in
camera discussions with the Probation Officer or
an in-camera memorandum or a confidential
memorandum. So I will disclose to all three
attorneys that the discussions through the
confidential pages and the in-camera conference
with the Court consists of almost what is in
the Pre-sentence Reports that have been available
to counsel. I haven't compared the official
statements word for word in each of the Pre-
sentence Reports, but I think they're all
identical with respect to the various alleged
roles of the defendants.

As I recollect, the defendant Palter was

1
2 more in the management type of situation, he
3 was there throughout the entire operation.

4 Davies was the chemist who was in the
5 operation for a while and left, came back, was
6 not part of the Castro-Velazquez operation, and
7 Castro was more in the selling end of the
8 operation.

9 Nothing the Probation Officer told me varies
10 from that, and there is nothing the Probation
11 Officer told me with respect to roles that is not
12 disclosed in the Pre-sentence Report. In other
13 words, if you are concerned that there is some
14 information that I have that differs from what
15 you have read in the Pre-sentence Report, clear
16 your mind of that because that is not part of
17 any record that I have seen or anything that has
18 been disclosed to me.

19 All right. I will hear counsel with respect
20 to Mr. Palter.

21 MS. GINZBERG: I know that Your Honor has
22 my Pre-sentence Memorandum, and I think at this
23 late date there is little purpose to be served
24 in my detailing the crime and Mr. Palter's
25 involvement in it.

I only wish that at this juncture I had

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the ability to communicate to Your Honor what Mr. Palter has been through in the past five months. As Your Honor knows, he is a first offender. This is his first involvement with the criminal law, and I can tell you from my frequent contact with him over this period that the anxiety and the misery that he has felt is enormous. He has watched his life in large measure and in many respects fall apart. He has watched his wife suffer because of the stupidity of his involvement in this scheme. He has watched his parents who have been with him throughout this suffer immeasurably because they see their eldest son who in many respects certainly in school has functioned well and has always had such promise, suddenly throw his life away.

As Your Honor knows, upon sentence and conviction for this crime, Mr. Palter will be automatically disbarred from the practice of law in New York.

Now, he has yet to date to practice law, but I know from my discussions with him and the very fact that he has continued in his study of law that at some point in the future he had

1
2 hoped to practice law. That, obviously, is a
3 possibility that is forever precluded by these
4 proceedings.

5 Mr. Palter throughout the difficulty of
6 these months and when as I said, he watched his
7 life fall apart, has at the same time or on the
8 other hand, done what he could to recoup those
9 losses. He has cooperated fully with the
10 Government, and he did so at the very early
11 stages of this prosecution. I believe the
12 details of his cooperation are set forth both
13 in Mr. Pickerstein's letter to this Court and
14 in my Pre-sentence Memorandum.

15 He has also embarked upon a very thorough,
16 intensive and constructive therapy proceeding.
17 He is seeing a psychiatrist or a psychologist
18 three times a week, and she reports that he is
19 making substantial progress.

20 I think by these actions Mr. Palter shows
21 recognition of the wrongfulness of his conduct
22 and also a determination to set himself right,
23 to do what he can to set himself right.

24 There is no question, Your Honor, that this
25 is a serious offense, and I know that Mr. Palter
recognizes it as such, but this was his first

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mistake and he will, Your Honor, never, ever engage in any kind of similar conduct or any criminal activity again. I feel certain in assuring you of that fact.

We ask only in light of his cooperation and in light of his on-going therapy, that Your Honor be merciful and place him on probation so that he can continue in this therapy and make himself a productive member of society once again.

THE COURT: Mr. Palter, would you like to say anything in your own behalf?

MR. PALTER: May I?

THE COURT: By all means. Take your time.

MR. PALTER: Your Honor, I don't quite know what to say or how to say it, but what I did was wrong, and I have humiliated my parents and I have hurt my wife who I deeply love, and it was wrong, and I shouldn't have done it. If I could undo it, I would, but I can't, and I did do it, and I am sorry, and I have tried to make amends, and I hope you will be merciful.

THE COURT: Well, it is obvious we have here facially what appears to be a large drug conspiracy with all the indicia of a plan to sell

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2 these drugs on a large scale and at huge profits.

3 I could list all the factors, but they're
4 in the Pre-sentence Report from the stationery
5 down to the equipment, down to the planning
6 areas. However, as you delve into it and look
7 at the people that were involved, particularly
8 Mr. Palter, you get somewhat of a different
9 rationale for the operation.

10 I think each of them had perhaps a different
11 motive and different purpose. I think Mr. Palter's
12 case is a sad one. He has outstanding mental
13 capacity, but he is suffering from severe
14 psychological problems. I don't think it serves
15 any useful purpose to put the findings of the
16 psychiatrist on the record. Counsel has seen
17 them, I have seen them, the Probation Officer
18 has seen them. So we do get a picture of a
19 man that is somewhat different than one would
20 think when you read the official version of the
21 crime. He, however, was in this operation all
22 the way through, and he was a part of it and, of
23 course, he is a lawyer, which on the one hand,
24 compounds in my mind his culpability.

25 On the other, it shows that he had to be
more psychologically disturbed than one would

1 think because a lawyer would never get himself
2 involved in this type of operation for the
3 reasons that Mr. Palter apparently did.
4

5 On the credit side, of course, is his
6 cooperation. There is no dispute about that.
7 He gave a full and open disclosure of his role
8 and the roles of the others, and the Government
9 appreciates that and has sent me letters, I think
10 at least two, highlighting the fact that
11 Mr. Palter did come forward and was most
12 cooperative.

13 I think all these factors save Mr. Palter
14 quite a bit of time of incarceration, but I
15 just can't overlook the fact and put him on
16 probation, and particularly since he was in it
17 so long and he had this legal training and has
18 this mental ability.

19 What I have decided to do is give him a
20 sentence, but it must be served in the
21 Metropolitan Correctional Center in New York
22 City where I know he will be in a different type
23 of atmosphere than a regular prison or correc-
24 tional center.

25 I don't see any reason why psychiatric help
can't continue there. If he is not incarcerated

1
2 in the Metropolitan Correctional Center, and I
3 only can recommend it, I can't order it, I will
4 entertain a motion for reduction of sentence.

5 Under all the circumstances, it is adjudged
6 that the defendant is hereby committed to the
7 custody of the Attorney General as authorized
8 representative for a period of four months to
9 be followed by two years special parole term.

10 The Court strongly recommends the
11 Metropolitan Correctional Center in New York
12 City. If the defendant is not incarcerated there,
13 I will entertain a motion for reduction of
14 sentence. I am not sure how I will act on it,
15 but I want to make sure that he is not put in
16 a regular prison or one of the usual correctional
17 centers. I understand the Metropolitan Correc-
18 tional Center has the facilities and the ability
19 to handle someone with Mr. Palter's background.

20 MS. GINZBERG: Your Honor, may I suggest
21 that Your Honor consider the possibility of
22 Mr. Palter serving this sentence on week-ends
23 so that he can continue with the therapy that he
24 has already begun? I am formally with the
25 Federal Defender Services Unit in New York City,
and I am fully familiar with the facilities

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2 that are available at M.C.C., and although much
3 of them look good on paper, I know that they
4 have no psycho therapy facilities at M.C.C.
5 They are over-crowded, and they give no medical
6 attention at all to the inmates.

7 If Mr. Palter were to serve this sentence
8 on week-ends, he could continue with the therapy
9 that has already begun, he could continue to
10 support his wife who is completely financially
11 dependent on this man.

12 THE COURT: Well, I think what I prefer
13 to do is delay the surrender of Mr. Palter. I
14 prefer to have your comments relayed to the
15 Probation Officer and have the Probation Officer
16 give me a report as to the advantages or dis-
17 advantages of week-end service. I am just not
18 familiar with that type of sentence, and also
19 with respect to your comments that he would not
20 be able to receive the psychiatric help if he
21 were there full time.

22 So on or before November 28th I will expect
23 a follow-up memorandum from the Probation Officer
24 with respect to how the sentence should be
25 served. If there is to be no change in the
sentence I impose today, there is no need for an

1
2 appearance by the defendant. If there is to be
3 a change in the manner in which the sentence is
4 to be served, I will set down another hearing
5 so that I can resentence the defendant.

6 So what we will do is by the 28th I should
7 have some sort of a memo, I will read it over,
8 and you may submit anything you want also to
9 me.

10 MS. GINZBERG: Thank you.

11 THE COURT: But I want the Probation
12 Officer also to submit a recommendation on this,
13 and then if I want to change the sentence, I
14 will let you know and you can come in at a
15 convenient time after the 28th. If I don't
16 change the sentence, I will let you know, and
17 he will have to surrender himself on a voluntary
18 surrender program, and I will inform counsel of
19 the time and place.

20 MS. GINZBERG: Thank you, Your Honor. Will
21 you entertain a motion to dismiss Count One?

22 MR. PICKERSTEIN: At this time the
23 Government would move to dismiss Count One. I
24 have made up a written motion.

25 THE COURT: Yes. The motion is granted.

THE MARSHAL: Did you want to obtain a

1 designation in the entry?

2 THE COURT: Can you?

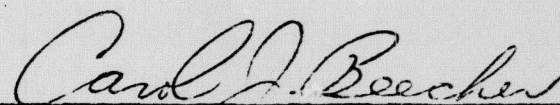
3 THE MARSHAL: Yes.

4 THE COURT: Yes. I would like to know if
5 the M.C.C. is willing to take him.
6
7

8 * * * * *

CERTIFICATE

I hereby certify that the foregoing
13 pages are a complete and accurate transcription of my
original shorthand notes of the case of United States of
America versus Daniel Scott Palter, Criminal No. N-77-89,
held before The Honorable Robert C. Zampano in New Haven,
Connecticut, on November 21, 1977.



Carol J. Beecher, C.S.R.
Official Court Reporter

1
2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE DISTRICT OF CONNECTICUT
4

5 ----- x
6 UNITED STATES OF AMERICA, :

7 Plaintiff, :

8 vs.

: Criminal N-77-89

9 ANDREW CASTRO,

Defendant. :

10 ----- x

11 Federal Building
12 Third Floor Courtroom
13 New Haven, Connecticut

November 21, 1977

14 B e f o r e :

15 The Honorable ROBERT C. ZAMPANO
16 Senior United States District Judge

17 A p p e a r a n c e s :

18 For the Plaintiff:

19 H. JAMES PICKERSTEIN
20 P. O. Box 1824
New Haven, Connecticut 06508
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A p p e a r a n c e s (Continued):

For the Defendant:

ANDREW B. BOWMAN
770 Chapel Street
New Haven, Connecticut 06510

1
2 MR. PICKERSTEIN: Your Honor, the next
3 matter is Criminal N-77-89, United States of
4 America against Andrew Castro. Mr. Castro is
5 represented by Mr. Bowman.

6 The Government has no comments.

7 THE COURT: All right. Mr. Bowman.

8 MR. BOWMAN: Your Honor, I want to just
9 state at the outset that it was my motion that
10 was filed, and I thank Your Honor for the
11 disclosure that was made.

12 THE COURT: Yes. I am not sure I have
13 given you a full answer, but there just isn't
14 anything along the lines that you suggest.

15 MR. BOWMAN: I didn't know if there was,
16 Your Honor. In any event, let me just say
17 that I think that this is one of the most
18 difficult sentencing cases that I, from an
19 attorney's point of view representing one
20 defendant has seen in quite some time, both in
21 terms of the fact of what has happened to one of
22 the people involved here, Mr. Velazquez, who
23 has received complete transactional immunity,
24 who is Andrew Castro's cousin, and who was much
25 more privileged than he, a student at Yale, and
someone who was the actual manufacturer of this

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2 amphetamine.

3 There is an illusion in the report, and I
4 believe with all due respect to the Probation
5 Officer, that something came right out of the
6 D.E.A. Report, I have checked it, that this
7 Lab was capable of producing 100,000 dosage
8 units a month. My client never saw anything
9 like that come out of this Laboratory. He never
10 had any idea that that was possible and can't
11 say to the Court, "No, it wasn't possible.",
12 because he just doesn't know because that wasn't
13 his part of the operation, because he wasn't
14 that knowledgeable about it.

15 In terms of the tapes that the Government
16 had with respect to this case, when Mr. Velazquez
17 was wired with a Kelset and also the overhearing
18 of the telephone conversation, there was nothing
19 in the telephone conversation which referred to
20 Mr. Castro, number one; and number two, the only
21 reference or the only voice of Mr. Castro on the
22 Kelset tape was in reference to him actually
23 just being there, but nothing which referred
24 specifically to the actual operation that was
25 ongoing that would lead anybody to believe that
he had great knowledge about the manufacturing

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2 of amphetamines.

3 He is 25 years old, Your Honor, and he is
4 a product of the most physically and economically
5 devastated neighborhood in all of America, the
6 South Bronx. He grew up there and had to
7 assume great financial responsibility in his
8 teens as a result of his mother's incapacitation
9 and his step-father's low wages and his step-
10 father's inability to meet his mother's medical
11 bills which she incurred as a result of five
12 heart attacks.

13 I think the relationship between Andy's
14 mother and himself is set forth in the psychiatric
15 report.

16 Even as he worked to support his family,
17 Your Honor, he attended City College and earned
18 over 90 credits toward a Bachelor's Degree.

19 He is not well. He suffers from high blood
20 pressure. He has an inoperable ulcer. He is
21 extremely depressed. He is a young man whose
22 dearest and closest friend was Scott Palter. In
23 fact, upon his arrest and his incarceration in
24 lieu of bond, I don't think I would be telling
25 the Court anything new if I said a defendant's
first concern to his lawyer is, "How do I get

1
2 out of jail?". But that wasn't Andy Castro's,
3 although it was heavily on his mind.

4 He was very concerned about his friend,
5 and it is a trait of character that I don't often
6 see in the criminal courts of this country.
7 Andy Castro depended on Scott Palter. He trusted
8 him and he drew his emotional support from him.
9 All I am saying by that is that he considered
10 him a very dear, dear friend.

11 During the period of December 1975 through
12 April 1976, Andy was being treated at the
13 Huns Point Mental Health Center. He suffered
14 then from a mental illness, anxiety, depression
15 as set forth in the Psychiatric Report, and he
16 is suffering now.

17 As for his role here, he didn't possess
18 the formula. He was not the brains of this
19 operation, not that I believe anybody was, you
20 know, the paramount evil in the case because I
21 don't think that is in this case. He was not
22 the financier. As a matter of fact, Mr. Velazquez,
23 who is receiving immunity in this case, invested
24 quite a bit of funds here, and I think the
25 Government knows more about it than I do.

As I said before, there is just nothing

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2 here to show that Andy Castro did what he did
3 for any reason other than what he perceived as
4 survival. He has been sick. He has been
5 disabled. What he did he knows he was wrong in
6 doing, but I think that as one views this case,
7 one has to look at his role as the end and not
8 the beginning of the line.

9 When he became involved, he had dropped out
10 of school. He at that time was extremely
11 depressed and sought help at the Huns Point
12 Mental Health Center.

13 It is not an excuse that he was sick, but
14 it is just the framework which we ask the Court
15 to consider this case in.

16 In terms of his cooperation, the Government
17 never wanted it. They would have had Andy Castro's
18 cooperation because I went to them and I said,
19 "Mr. Pickerstein, would you like Mr. Castro to
20 cooperate?", and he said that really, he didn't
21 think there was anything that Mr. Castro could
22 do for him.

23 He is not reticent as he stands before the
24 Court, but he is rather contrite. I am asking
25 the Court to consider the absolute despair in
which he grew up in, the area he grew up in, his

1
2 illness which he suffers from today, the fact
3 that he has no prior criminal record, and that
4 he acted in part in this case to support his
5 family and to support himself.

6 That is all I have.

7 THE COURT: Mr. Castro, would you like to
8 say anything in your own behalf?

9 MR. CASTRO: No, thank you, sir.

10 THE COURT: Well, I will agree with you
11 in one respect, Mr. Bowman: That if someone
12 read the official version of the crime, it is
13 highly unlikely that they would have pictured
14 in their mind in the background persons like
15 Castro, Davies and Palter. Their personalities
16 and their backgrounds and their attitudes just
17 don't fit into what appears to be a major drug
18 conspiracy.

19 On the other hand, in the Palter case, we
20 did have a crime committed and Mr. Castro was
21 the distributor of the drugs. The other thing
22 that spins him off from the other two is that
23 he did try to pick up the business with
24 Velazquez.

25 I have weighed all the factors submitted
in the Pre-sentence Report. Again, I see no

1
2 real purpose in going over Mr. Castro's
3 Psychiatric Reports that have been submitted.
4 I recognize the upbringing he had, but I have
5 to balance that against his large scale or his
6 potentially large scale operation.

7 I agree with you in that I don't think
8 these three men had the ability to carry out
9 the potential. They all have serious problems,
10 but I think there is a difference, however, in
11 the Palter case and the Castro case. I mentioned
12 some during the Palter case, and I mentioned
13 some here in the sentencing of Castro.

14 Under all the circumstances, it is adjudged
15 on Count Two, the defendant is hereby committed
16 to the custody of the Attorney General or his
17 authorized representative for a period of
18 incarceration of 18 months to be followed by
19 2 years special parole term.

20 MR. BOWMAN: Your Honor, while certainly
21 when we came to court this morning, we realized
22 that there was a possibility of incarceration,
23 I wonder if the Court would grant him 48 hours
24 to surrender?

25 THE COURT: Why?

MR. BOWMAN: I think just to prepare himself

1
2 further for prison. He has always been
3 responsible. I must tell the Court that he has
4 been in contact with my office at least three
5 times a week during the course --

6 THE COURT: It just seems incredible to
7 me that he had any thoughts that he was going
8 to leave this courtroom with a probationary
9 sentence under the facts of this case. He is
10 single. He is unemployed. He is residing at
11 his parents' home. I will not approve of a
12 voluntary surrender program under the circum-
13 stances. The motion is denied.

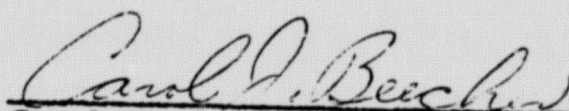
14 MR. PICKERSTEIN: Your Honor, at this time
15 the Government moves to dismiss Count One of
16 the indictment in this case, and I hand up a
17 written motion.

18 THE COURT: Yes. The motion is granted.

19
20 * * * * *

CERTIFICATE

I hereby certify that the foregoing
10 pages are a complete and accurate transcription of
my original shorthand notes of the case of United States
of America versus Andrew Castro, Criminal No. N-77-89,
held before The Honorable Robert C. Zampano in New Haven,
Connecticut, on November 21, 1977.



Carol J. Beecher, C.S.R.
Official Court Reporter

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF CONNECTICUT

4 - - - - - x
5 UNITED STATES OF AMERICA, :

6 Plaintiff, :

7 vs. :

: Criminal No. N-77-89

8 OWEN BRADLEY DAVIES, :

9 Defendant. :
10 - - - - - x.

11 Federal Building
12 Third Floor Courtroom
13 New Haven, Connecticut

14 November 21, 1977

15 B e f o r e :

16 The Honorable ROBERT C. ZAMPANO
17 Senior United States District Judge

18 A p p e a r a n c e s :

19 For the Plaintiff:

20 H. JAMES PICKERSTEIN
21 P. O. Box 1824
22 New Haven, Connecticut 06508
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2 A p p e a r a n c e s (Continued):

3 THOMAS D. CLIFFORD
4 799 Main Street
5 Hartford, Connecticut

6 For the Defendant
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2 MR. PICKERSTEIN: Your Honor, the next
3 matter is Criminal No. N-77-89, United States
4 versus Owen Bradley Davies.

5 Mr. Davies is represented by Mr. Clifford.

6 The Government's comments have been made a
7 part of the record, Your Honor.

8 THE COURT: Mr. Clifford.

9 MR. CLIFFORD: Good morning, Your Honor.
10 The record should reflect that in addition to
11 the Pre-sentence Report, I have submitted to
12 the Court an Employment Verification also
13 concerning my client, various samples of his
14 writings with Hearst Publications and others,
15 and a Psychiatric Report from Dr. Scott.

16 Your Honor, I think there are certain
17 things that ought to be said right away. My
18 client has no prior conviction and no prior
19 record, and that he has cooperated with the
20 Government. The Government has made that known
21 to the Court.

22 If I can pick up a certain remark that
23 Your Honor made in general before the defendants
24 were sentenced. You indicated that the record
25 would indicate that Mr. Davies was in for a
period of time, out for a period of time and in

1
2 for a period of time. I would like to pick
3 them up because I think it is of some importance
4 in this case concerning Mr. Davies.

5 If I could call the first period some time
6 for about six months in 1974 without being
7 terribly accurate in that regard. It is clear
8 that Mr. Davies was involved in the manufacture
9 of the drug in question here.

10 Now, having said that, I think the important
11 question for at least me to address is why. You
12 see, it is easy to say he did it for the money.
13 Actually, not very much money was made, and the
14 money theory falls apart because in no way were
15 the drugs made that would compensate anybody
16 to the extent of the risk they were taking.
17 Not only that, but there was a clear withdrawal
18 from any manufacture for a period of about a
19 year and a half.

20 Nor is it fair for me to say that
21 Mr. Davies is the mad scientist. I think that
22 is too simplified an explanation, but it is very
23 clear, Your Honor, that at the time of the first
24 period, 1974, he was suffering under a very
25 deep depression. He had left various jobs, and
Dr. Gross' Report indicates that, "This is a

1 gentleman who finds it difficult to work and
2 antagonistic towards superiors whose intellect
3 he might not appreciate as much as his own."

4 So that in this period of time, he was under
5 very severe depression, under psychiatric care
6 from Dr. Hampshire, and I have not been able to
7 obtain reports.

8 There was also involved here something of
9 a challenge to his intellectual curiosity.
10 There is no question, Your Honor, from the
11 writings of this gentleman in the scientific
12 field and a very distinct ability to reduce that
13 to understandable English, that there is a
14 tremendous wealth of a scientific curiosity.

15 I have got to be careful I don't over-
16 simplify this because I don't think that is fair
17 to the Court either to say that it was merely
18 intellectual curiosity that got him involved.
19 That is clearly not so, but it was a very, very
20 large part of his involvement.

21 The other important thing, Your Honor, is
22 that during this first phase, it became obvious
23 that the formula was not working and probably
24 an unanswered question even in Mr. Davies' mind
25 today is, "Why could I not work out what was,

1
2 in effect, a second year high school chemistry
3 problem?"

4 I think Dr. Gross has put his finger on it,
5 that maybe he could have, but he would not, and
6 the fact that he could no longer or would not or
7 could not produce the drug during this first
8 phase was the reason that that phase ended.

9 I am suggesting to the Court that there
10 was at least an unconscious desire to end that
11 situation, to end that relationship, and I am
12 not trying to say he didn't become involved. I
13 understand that, but something was going on
14 inside his mind at that time that said "Out.
15 No more for me. Finished."

16 Then comes the phase of a year and a half,
17 and the phase of a year and a half is very
18 important. There is no activity with drugs.
19 There is no social contact with Mr. Palter.

20 You know, there is a great temptation to
21 stand up in a case of multiple defendants and
22 have everybody point fingers at each other and
23 say, "He did it and not me." I am really
24 hesitant to do that, and I don't want to do that
25 because I think what happened was that the
personality of Mr. Palter was such, without

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being an active force, and the personality of Mr. Davies was such that, in fact, Mr. Palter became the Pied Piper. I don't say that trying to place blame on anybody else because Mr. Davies has accepted his blame, but it is very clear from the report of Dr. Gross that this man regarded Mr. Palter as one of the few minds better than his own, that he was a charismatic leader for Mr. Davies; that, in fact, he was his loco-psychiatrist who talked him out of depression.

All I am suggesting, and the Psychiatric Report and the Pre-sentence Report, both indicate that Mr. Davies comes from a background that on the surface is as well advantaged as you can see in our society. On the other hand, that well advantaged exterior just covered what may have been a very devastating emotional poverty within the household.

The Pre-sentence Report and Dr. Gross' Psychiatric Report indicates an alcoholic father, and it is beyond me how anybody can describe their mother as a person who is taking up space, but that is the way she is described.

He is described as a person who

1 intellectualizes, who rationalizes, who has
2 placed such an emphasis on the intellectual
3 that that affects his emotional affectations
4 towards others. He has a present relationship
5 with a woman 14 years older than himself.
6

7 I mean if there is anything, that points
8 to the follower, because of his personality,
9 and I am not implying the active role of
10 Mr. Palter in this regard, but merely his
11 passive personality is a substantial factor in
12 his getting involved.

13 We now have a period of a year and a half,
14 Your Honor, where there is no contact with
15 Mr. Palter, no manufacture of drugs, no illicit
16 activity. We come to what we call the
17 conspiracy phase.

18 Now, the Court has got to understand that
19 at that point in time, Velazquez, Castro and
20 Palter had already put the operation together,
21 and Mr. Davies' role was upon the request of
22 Mr. Palter, he turned over the equipment and his
23 notes. He called a chemical company to see if
24 a chemical was available.

25 The official Pre-sentence report indicates
that he was the advisor. Let me talk a little

1 bit about that because I think that has to be
2 corrected. Mr. Velazquez, the pre-med student
3 at Yale, the one who got the immunity as
4 referred to by Mr. Bowman, he is the chemist.
5 As a matter of fact, he didn't have any problem
6 putting it together.

7 So that to say Mr. Davies, who couldn't
8 make the thing work and made it stop and they
9 couldn't go on some two years prior, is now the
10 advisor to the person who puts the whole thing
11 together and makes it work, I think is a little
12 distorted.

13 There is a telephone conversation, a tape
14 of which I have heard between Mr. Velazquez and
15 Mr. Davies. It is the set-up phone call.
16 Mr. Velazquez has already indicated he will
17 cooperate, and would he make a phone call to
18 Mr. Davies. "Yes, sure, I will make a phone
19 call to Mr. Davies." He calls him at his place
20 of employment. Now, I don't remember that phone
21 call verbatim, but the questions were: "I am
22 having trouble with the sludge in the operation.
23 Has that ever happened to you before?" "No."
24 "Well, what do you think I ought to do?" "I
25 don't know."

1 I don't want to be facetious, Your Honor,
2 and this is a serious proceeding, but if advice
3 is what he gave, there was a line that said,
4 "Well, what do you do about the fires?"

5 Mr. Davies paused and said "Buy a fire extin-
6 guisher." Now, if that is to characterize the
7 advice he gave for this operation, then I think
8 that that is distorted.

9 At the time of the plea, Your Honor maybe
10 remembers where we had a dialogue about the
11 facts that were concerned, and I indicated to
12 Your Honor this is not the substance of the
13 offense, the conspiracy. There is no question
14 under the facts he gave the equipment and knew
15 it was to be done; he gave his notes and knew it
16 was to be done; he made the phone call concerning
17 the availability of a chemical; and he, in fact,
18 was involved in the conspiracy.

19 Now, I have no problem with that, but the
20 problem in sentencing is to take some recognition
21 of the role that he played. He had no money
22 invested and he expected none out of it. He
23 never performed any of the chemistry in this
24 second phase. He did not, in fact, advise; he
25 did not anticipate to become either involved

1 financially or in the research.

2 The Pre-sentence Report indicates that
3 this second phase is the Palter-Castro-
4 Velazquez incident. I think that that has to
5 be placed in some perspective because that is
6 the crime to which he has pleaded, Your Honor.
7 I don't think you can ignore the prior
8 association with Mr. Palter, but I think it has
9 got to be placed in that perspective, and in
10 that regard, he is different.

11 Your Honor, this is a gentleman who has a
12 great deal of talent and has an ability to
13 translate into understandable English, complica-
14 ted scientific facts. I gave the Court copies
15 of his writings. They are not rinky-dink. They
16 are not put out on a mimeograph machine. They
17 are, in fact, acknowledged scientific magazines,
18 well recognized within the industry. As of
19 October, Mr. Davies was to be appointed
20 Contributing Science Editor of Science Digest.

21 MR. DAVIES: No. American Drugs.

22 MR. CLIFFORD: -- of American Drugs.

23 MR. DAVIES: It has been done.

24 MR. CLIFFORD: It has been done. I am
25 concerned, Your Honor, that that talent not being

1
2 utilized will in some way become stifled. He
3 is eminently employable. He is a free lance
4 writer. People are waiting to see how this
5 resolves itself so he can pick up his writing.

6 Your Honor, I merely call attention to
7 Dr. Gross' last page of his Psychiatric Report,
8 and I am sure Your Honor has heard this before,
9 but given his personality and given his
10 temperament, Dr. Gross fears that imprisonment
11 will only leave very cruel consequences. He
12 does have personality problems. He will have
13 problems if incarcerated, and I am not trying
14 to cry wolf, Your Honor. I have been before
15 you enough times, and I think on serious cases,
16 and I have been inside prisons and I know what
17 goes on. I would give him a day, Your Honor,
18 inside before he has trouble.

19 THE COURT: Would you like to say anything
20 in your own behalf, Mr. Davies?

21 MR. DAVIES: Yes, Your Honor. I got into
22 this back in '74 with a lot of effort and a lot
23 of thought on the technical problems to be
24 solved. Very little thought about the long
25 term consequences. When I got out and looked
back on it, I was tremendously relieved and

1
2 surprised that nothing worse had come of it than
3 that I had wasted a year of my life.

4 During the year and a half or two years
5 since I have tried very hard to use my ability
6 as a science writer to give myself a stable life,
7 to be productive socially by transmitting health
8 information to people who might not otherwise
9 have it, including physicians who need new
10 techniques. I can continue doing that. I think
11 it will be productive. I have no wish on earth
12 to do anything but pursue that career.

13 There is no way in which I would ever
14 break the law again. Whatever leniency you can
15 show, Your Honor, I would be very grateful for.

16 THE COURT: Well, my comments in the Palter
17 and Castro cases to some extent are applicable
18 here, and if it were not for all the factors
19 that you mentioned, Mr. Clifford, you would be
20 hearing me say five years of incarceration today
21 instead of the sentences that I have been
22 imposing.

23 It is true that Mr. Davies did not have the
24 profit motive that Mr. Castro had, and that is a
25 big difference, and it is true he was out of it
for a time, and perhaps it was his subconscious

2 desire not to be involved, but he did play a
3 role in this conspiracy that was an extremely
4 important one.

5 I don't wish to repeat, but they are
6 certainly not the type of people I have seen in
7 major conspiracies, that is, with these back-
8 grounds, and I am satisfied that perhaps some-
9 where in the background of this, Davies had
10 somewhat the same drives and emotional problems
11 that Palter did, but not to Palter's extent.

12 I accept the fact that it was not a scheme
13 to sit down and make a great deal of money as
14 most of these conspiracies are designed.
15 However, he did play a role. With respect to
16 credit that I gave Palter and I am not giving
17 Davies, it is on the cooperation, among other
18 things.

19 All right. Davies came forward, but
20 cooperation is important in drug conspiracy
21 cases. Palter came forward first. It was
22 almost anti-climatic for Davies to come forward.
23 I don't think the Government learned very much
24 from Mr. Davies. I think that is a weighty
25 consideration in my mind because it reflects
rehabilitation, it reflects remorse, it reflects

1
2 a decision to try to make amends to the
3 community by an open and full confession. So
4 there are differences.

5 I think Mr. Palter has more serious
6 psychological problems than Mr. Davies, and yet
7 on the other hand, I don't think Davies had
8 the motives that should be punishable as much
9 as Mr. Castro.

10 Therefore, under all the circumstances, on
11 Count Two, it is adjudged the defendant is
12 hereby committed to the custody of the Attorney
13 General or his authorized representative for
14 imprisonment for a term of one year to be
15 followed by a two year special parole term.

16 MR. CLIFFORD: Thank you, Your Honor.

17 MR. PICKERSTEIN: Your Honor, at this time
18 the Government would move to dismiss Count One
19 in the indictment in this case, and I hand up a
20 written motion.

21 THE COURT: The motion is granted.

22 MR. CLIFFORD: Your Honor, if I could have
23 just a moment to think on your sentence because
24 it may make some difference to my client whether
25 it is a year and a day versus a year.

THE COURT: Well, let me say two things.

1
2 (1) I don't hesitate a minute to give you a
3 recess to talk to Mr. Pond or anyone else who
4 might be able to advise you; and (2) I have no
5 particular commitment to one year as against
6 one year and a day.

7 MR. CLIFFORD: My problem is my under-
8 standing on a year and a day, you do get more
9 good time statutorily than you do on the year
10 sentence.

11 THE COURT: Well, check it out.

12 MR. CLIFFORD: I will, Your Honor.

13 THE COURT: If you want him for some
14 reason to receive a year and a day, come back
15 in and I will sentence him to that.

16 MR. CLIFFORD: Thank you, Your Honor.

17 THE MARSHAL: Is the defendant in custody,
18 Your Honor?

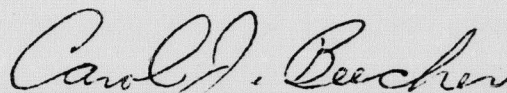
19 THE COURT: Yes. Certainly.

20 MR. CLIFFORD: I withdraw my request for
21 a year and a day because it only means twelve
22 days eventually, and since the new parole
23 guidelines, it doesn't make any difference upon
24 his eligibility for parole.

25 THE COURT: Very well. The sentence may
remain as imposed.

CERTIFICATE

I hereby certify that the foregoing
16 pages are a complete and accurate transcription of
my original shorthand notes of the case of United States
of America versus Owen Bradley Davies, Criminal No. N-77-89,
held before The Honorable Robert C. Zampano in New Haven,
Connecticut, on November 21, 1977.



Carol J. Beecher, C.S.R.
Official Court Reporter